



CrI.O.P.(MD).No.23621 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.23621 of 2014

and

M.P(MD).No.1 of 2014

1. Ramasamy

2. Sakunthala

3. Dhanapalan

4. Annamalai

5. Jeyapandian

... Petitioners

Vs.

Murugan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the Charge sheet in S.T.C.No. 6016 of 2014 on the file of the Judicial Magistrate No.1, Sivagangai and quash the same.

For Petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.M.Ramanathan



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ORDER

This petition has been filed to quash the Charge sheet in S.T.C.No. 6016 of 2014 on the file of the Judicial Magistrate No.1, Sivagangai.

2.The respondent married one Krishnaveni, who is the daughter of the petitioners 1 and 2. The petitioners 3 and 4 are the brother of the said Krishnaveni. The fifth petitioner is the relative of the said Krishnaveni. The respondent married the daughter of the petitioners 1 and 2 on 21.08.2006. Out of their wedlock, a male child namely Vigneshwaran was born on 25.11.2007. Due to some strained relationship between the respondent and his wife, the respondent has filed a petition in H.M.O.P.No.101 of 2021, before the Sub Court, Sivagangai, and the same was transferred before the Family Court, Sivagangai, in H.M.O.P.No.105 of 2014. Pending the same, the child is in the custody of the petitioners. The respondent kidnapped the child from the custody of the petitioners. Hence, he made a complaint before the Town Police Station, Sivagangai, on 28.05.2013. The investigating Officer called the respondent and petitioners to attend the enquiry. During the course of



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enquiry, it is alleged that the respondent was assaulted by the petitioners and also criminally intimidated him. Therefore, the concerned Police officer registered a case in Crime No.947 of 2013 for the alleged offences under Sections 294(b), 323, 420 and 506(ii) of IPC. After the completion of investigation, the respective police officer filed the report closed as mistake of fact and also filed the final report before the learned Judicial Magistrate No.I, Sivagangai. The said closure report was accepted by the learned Judicial Magistrate No.1, Sivagangai, in C.C.No.04 of 2013, on 15.12.2013. Suppressing the same, the respondent filed a private compliant before the very same Court and the same was taken on file in S.T.C.No.6016 of 2014. To quash the said proceedings, the petitioners filed this petition.

3.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

4.The learned counsel appearing for the petitioners submitted that earlier the jurisdictional police officer conducted the investigation and registered the case in Crime No.947 of 2013. The same was closed as



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mistake of fact and filed the final report before the concerned Jurisdictional Magistrate. Thereafter, the second complaint, on the very same cause of action, has been filed by the respondent. He further submitted that without challenging the closure report, the second complaint in respect of the same occurrence is not maintainable. To substantiate this argument, the learned counsel appearing for the petitioners relied upon the following judgment of this Court:

(i)In the case of ***A.Krishna Rao Vs.***

L.S.Kumar, reported in ***1998 (I) CTC 329***.

(ii)In the case of ***Ganesan and others Vs.***

Ganapathy, reported in ***CDJ 2019 MHC 4984***.

Hence, he seeks for acquittal.

5.The learned counsel appearing for the respondent submitted that the present complaint is maintainable, since there is some different cause of action. Further, the law laid down by this Court is not applicable to the present case. Hence, he seeks for dismissal.



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6.This Court considered the rival submissions made on either side and perused the records and the precedents cited by the learned counsel for the petitioner.

7.It is admitted by the both the parties that earlier there is registration of the case in Crime No.947 of 2013 for the offence under Sections 294(b), 323, 420 and 506(ii) of IPC relating to the occurrence took place on 28.05.2013. The same was investigated by the Inspector of Police, Town Police Station, Sivagangai. After completion of the investigation, the complaint was closed as mistake of fact and the final report was filed before the learned Judicial Magistrate NO.II, Sivagangai. The same was accepted by the concerned Judicial Magistrate and there is no further adjudication. In the said circumstances, as law laid down by this Court cited supra, this Court is inclined to hold that the second complaint made by the respondent with same cause of action is not maintainable. Therefore, the continuation of the proceeding against the petitioners in S.T.C.No.6016 of 2014 on the file of the learned Judicial Magistrate No.1, Sivagangai, is amount abuse of process of law and hence, it is liable to be quashed.



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8. Accordingly, this Criminal Original Petition is allowed and the proceeding in S.T.C.No.6016 of 2014, on the file of the learned Judicial Magistrate No.1, Sivagangai is hereby quashed. Consequently, M.P(MD).No.1 of 2014 is closed.

07.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

vsg

To

1. The Judicial Magistrate No.1,
Sivagangai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

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