



Crl.O.P(MD).No.3968 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P. DHANABAL**

Crl.O.P(MD).No.3968 of 2020

and

Crl.M.P.(MD)No.2196 of 2020

1.Priya  
2.Chokkathai

...Petitioners

Vs

1.State rep. by,  
The Deputy Superintendent of Police,  
Rajapalayam Division,  
Virudhunagar District.  
2.The Inspector of Police,  
Rajapalayam North Police Station,  
Virudhunagar District.  
Crime No.99 of 2019  
3.Alagar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in Spl.S.C.No. 23 of 2019 on the file of the learned Special Court for SC/ST Act, Srivilliputtur, Virudhunagar District, and quash the same as against this petitioners.

|                         |                              |
|-------------------------|------------------------------|
| For Petitioners         | : Mr.N.Mohideen Basha        |
| For Respondents 1 and 2 | : Mr.R.M.Anbunithi           |
|                         | Additional Public Prosecutor |



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**ORDER**

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This petition is filed to quash charge sheet in Spl.S.C.No.23 of 2019 on the file of the Special Court for SC/ST Act, Srivilliputtur, Virudhunagar District.

2.According to the petitioners, the third respondent has preferred a complaint before the second respondent and based on the complaint, they registered a case in Crime No.99 of 2009 dated 08.02.2019 for the offences under Sections 294(b), 341, 323, 506(i) of IPC Sections 3(1)(s) and 3(2)(va) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act and thereafter, the first respondent investigated the case and filed final report and based on the final report, the Special Court had taken cognizance in Spl.S.C.No.23 of 2019.

3.According to the prosecution case, the defacto complainant is friend of Jaganatha Raja, who is the husband of the second petitioner namely, Chokkathai and father of the first petitioner. The said Jaganatha Raja died on 02.01.2016 and a case in Crime No.5 of 2016 under Section 174 of Cr.P.C., was registered by the second respondent and thereafter, at the instance of the younger brother of the deceased namely Radhakrishna Raja, the said case was altered under Section 302 of IPC, in which the petitioners are arrayed as



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accused. The defacto complainant is arrayed as witness. While so on 08.02.2019 at about 06.15 p.m., when the defacto complainant was proceeding in his vehicle near T.P.Mill Road, Bharathi Cotton Mill Gate, these petitioners being A1 and A2 were already standing there in their scooter bearing registration No.TN-84-E-2131, at that time they had way laid the defacto complainant and abused him by his caste name stating that how can he be witness in the murder case and then criminally intimidated him by caught hold of his shirt and A2 torn his shirt. Thereby, the aforesaid complaint has been lodged and registered FIR and now the charge sheet has been filed and the same is pending.

4. According to the petitioners, there is no public view in this case and no any eye witness to the occurrence. The passerby chance witness Kaliyandi, Sakthivel Raja and Alagendra Raja came to the scene of occurrence and even according to the defacto complainant, these witnesses are not eye witness to the occurrence and there is no *prima facie* materials as against the petitioners to constitute the offence. Already at the instigation of the Radhakrishna Raja, his servant namely Alagapuriyan had lodged false complaint and based on the complaint, FIR was also registered in Crime No.458 of 2017 and the same is also pending. While so in order to wreck vengeance, this false complaint has been lodged through this defacto complainant by Radhakrishna Raja.



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Therefore, the above case is foisted with malafide intention and with ulterior motive to grab the properties of the petitioners. Hence, the charge sheet is liable to be quashed.

5.No counter was filed on the side of the respondents.

6.The learned counsel appearing for the petitioners would contend that there is a civil dispute pending between these petitioners and Radhakrishna Raja. The defacto complainant is servant of Radhakrishna Raja and he insisted the defacto complainant to give false complaint in order to grab the properties of the petitioners. The said Radhakrishna Raja is none other than the first petitioner husband's brother and already at the instigation of said Radhakrishna Raja, the case has been registered as against these petitioners for the death of the first petitioner's husband and second petitioner's father who died by slipping in the staircase. Thereby, there is a motive between the Radhakrishna Raja and the petitioners. In order to wreck vengeance, the said Radhakrishna Raja by using this defacto complainant who is his servant, has foisted false case. Another case in Crime No.458 of 2017 was also registered by Radhakrishna Raja, on the complaint given by the another servant of Radhakrishna Raja. The first respondent without proper investigation filed final report and the same is abuse of process of law. Based on the aforesaid



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final report, now the case in Spl.S.C.No.23 of 2019 is pending before the Special Court for SC/ST Act. Therefore, the charge sheet and the Sessions case is liable to be quashed.

7.The learned counsel appearing for the third respondent would contend that already there is a civil dispute pending between the parties with regard to the land dispute and further this petitioners also involved in murder case of the first petitioner's husband and the second petitioner's father and the same is also pending. In the aforesaid murder case, the third respondent is the main witness. On the date of occurrence, when the defacto complainant was proceeding in his motorcycle, the petitioners, who were present in the place of occurrence, had waylaid the defacto complainant and abused caste name and threatened how can he be witness in the murder case and thereby, he lodged the aforesaid complaint and based on the complaint, the second respondent registered a FIR and the first respondent investigated the case and filed final report. Based on the final report, the Sessions Court has taken cognizance for the offence under Sections 294(b), 341, 323 of IPC and Sections 3(1)(s), 3(2) (va) of SC/ST (PoA) Act and now the case is pending. Since the allegations are serious in nature and the petitioners have to face trial and this petition is liable to be dismissed.



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8.The learned counsel appearing for the respondents 1 and 2 would contend that when the defacto complainant is a witness in murder case where these petitioners are accused, on the date of occurrence, these petitioners waylaid the defacto complainant and abused in caste name and threatened the defacto complainant how can he be witness in the aforesaid murder case. Thereby, the third respondent lodged a complaint before the second respondent and the second respondent based on the complaint given by the third respondent registered a case in Crime No.99 of 2019 and thereafter, the said case was investigated by the first respondent and the first respondent filed final report and as per final report, prima facie materials available as against the petitioners. Thereby, the Special Court has taken cognizance for the offence under Sections 294(b), 341, 323 of IPC and Sections 3(1)(s), 3(2) (va) of SC/ST (PoA) Act and now the case is pending before the Special Court for SC/ST (PoA) Act. Since prima facie materials available as against the petitioners, the petitioners have to face the trial and at this stage, the petition is liable to be dismissed.

9.This Court heard both sides and perused the materials available on records.

10.On perusal of the records, it is observed that these petitioners are



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facing criminal case for the death of first petitioner's husband and second petitioner's father. These petitioners are accused in that case. The defacto complainant herein is one of the witnesses in the aforesaid case. The allegation against the petitioners is that on the date of occurrence, the petitioners waylaid the defacto complainant and abused his caste name and threatened how can he be witness in the aforesaid murder case and they also criminally intimidated. Thereafter, the complaint was given and based on the complaint, FIR has been registered in Crime No.99 of 2019. Thereafter, the first respondent investigated the case and filed final report. Upon perusing the final report, the Special Court has taken cognizance for the offence under Sections 294(b), 341, 323 of IPC and Sections 3(1)(s), 3(2)(va) of SC/ST (PoA) Act in Spl.S.C.No.23 of 2019 and now the case is pending before the trial Court for further adjudication. The petitioners have filed this petition on the ground that there is no public view and there is no eye witness in this case.

11.As far as the grounds raised by the petitioners are concerned, they are the defence that could be taken before the trial Court. Now after filing final report, the trial Court had taken cognizance, since *prima facie* material is available as against these petitioners. The offences are also grave in nature and there are *prima facie* materials available as against the petitioners.

Therefore, the petitioners have to agitate the points raised by them in the



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petition before the trial Court.

12. Therefore, this petition has no merits and deserved to be dismissed. Accordingly this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

**05.09.2023**

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1. The Judge, Special Court for SC/St Act, Srivilliputhur,  
Virudhunagar District.
2. The Deputy Superintendent of Police,  
Rajapalayam Division,  
Virudhunagar District.
3. The Inspector of Police,  
Rajapalayam North Police Station,  
Virudhunagar District.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

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