



CrI.O.P.(MD)No.4824 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on: 24.07.2023	Delivered on: 14.09.2023
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THE HON'BLE MR.JUSTICE P.DHANABAL

CrI.O.P.(MD)No.4824 of 2020
and CrI.M.P.(MD)No.2774 of 2020

1.P.Raghavan

2.R.Dhanalakshmi

... Petitioners

Vs.

A.K.D.Ramaraj

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in PRC.No.30 of 2012 on the file of the learned Judicial Magistrate, Rajapalayam and to quash the same insofar as the petitioners alone.

For Petitioners : Mr.P.Balamurugan

For Respondent : Mr.T.Antony Arulraj

ORDER

This Criminal Original Petition has been filed to quash the proceedings in PRC.No.30 of 2012 on the file of the learned Judicial



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Magistrate, Rajapalayam and to quash the same insofar as the petitioners are concerned.

2. According to the petitioners, the petitioners are arrayed as A1 and A2 in PRC.No.30 of 2012 for the offence under Sections 341, 323, 427, 452, 109, 116, 119, 307 IPC and 25(1)(a) of the Arms Act. The respondent preferred a complaint before the learned Judicial Magistrate, Rajapalayam alleging that civil dispute pending between the second petitioner and the defacto complainant in respect of certain family properties. Due to that motive, on 26.05.2009, at about 04.00 pm., when the defacto complainant staying in his house, on the instigation of the petitioners herein, A4, who is the Inspector of Police, Rajapalayam South Police Station, picked up the complainant, without any valid reasons and kept him in the police station till the next morning, without providing any food or water. On 27.05.2009, A3 to A6 had taken the complainant to his garden. At that time, the petitioners herein gave a sum of Rs.5,000/- to A4 as bribe and started to damage the granite, which was contained the name of his father in the main gate and the same was prevented by the complainant. During the clash, A3 was holding the hands of the complainant from behind and the first petitioner was pointing a country made



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pistol on the forehead of the complainant and threatening him. The second petitioner was trying to cut his neck with a button knife, but the complainant narrowly escaped from the act of the second petitioner and luckily his own brother one Ramasubramaniya Raja, who was loitering around the scene, came to his rescue and saved him from the attack. The police Inspector was threatening his brother with dire consequences. Thereafter, the respondent herein filed private complaint under Section 200 Cr.P.C., before the learned Chief Judicial Magistrate, Srivilliputtur in CrI.M.P.No.2047 of 2009 and the same was forwarded to the learned Judicial Magistrate, Rajapalayam, which was taken on file in PRC.No.30 of 2012 for the offence under Sections 341, 323, 427, 452, 109, 116, 119, 307 IPC and 25(1)(a) of the Arms Act as against the petitioners and four others. In fact, the respondent herein is none other than the brother of the second petitioner. The second petitioner got the house property from her mother through a registered Gift Settlement Deed, in turn, the second petitioner executed a gift settlement deed in favour of the first petitioner herein. Based on the settlement deed, the first petitioner built a form house by obtaining loan from the State Government of Madhya Pradesh and he is in possession and enjoyment of property. Subsequently, the complainant created un-registered forged will in



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the name of his father A.K.Dharma Raja. By using the forged will, the complainant was trying to grab the above said property and forcibly entered into the house and snatched the house keys from the second petitioner by abusing her in filthy language and thereby, the second petitioner lodged a complaint before the Inspector of Police, South Police Station, Rajapalayam and a case was also registered in Cr.No.286 of 2009 for the offence under Sections 448, 294(b), 506(i) IPC as against the respondent. Thereafter, in order to wreck vengeance, the respondent filed a false private complaint in order to grab the property. Therefore, it is clear abuse of process of law and hence, it has to be quashed. No counter was filed by the respondent.

3.The learned counsel appearing for the petitioner would contend that already there is civil dispute pending between the parties and the second petitioner has lodged a complaint as against the respondent herein and FIR was also registered in Cr.No.286 of 2009 for the offence under Sections 448, 294(b), 506(i) IPC and thereafter, the respondent had filed a suit in O.S.No.176 of 2009 on the file Additional District Munsif Court, Srivilliputtur for the relief of the permanent injunction as against the petitioners herein and the same was also dismissed and thereafter, in order to take



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revenge, the respondent had filed the present false complaint before the learned Magistrate and the same was also taken cognizance in PRC.No.30 of 2012 for the offence under Sections 341, 323, 427, 452, 109, 116, 119, 307 IPC and Section 25(1)(a) of the Arms Act, 1959. In fact, due to civil dispute and pendency of the previous complaint, in order to take revenge, the respondent has filed a false complaint and no such occurrence was happened, at any point of time. Hence, the present proceedings in PRC.No.30 of 2012 is clear abuse of process of law and the same is liable to be quashed.

4.The learned counsel appearing for the respondent would contend that on the date of occurrence, A4 to A6 took up the complainant in the police van at the instigation of A1 and A2 and thereafter, he was taken to the garden of the complainant and there, the petitioners herein gave Rs.5000/- as bribe to the police. Thereafter, the petitioners attempted to damage the name board of the complainant's father and then, A3 caught hold the hands of the complainant from the behind and the first petitioner was pointing a country made pistol on the forehead of the complainant and threatening him. The second petitioner was trying to cut his neck with a button knife and other accused also assaulted the defacto



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complainant. Therefore, the respondent preferred the private complaint before the learned Judicial Magistrate, Rajapalayam and the same was taken cognizance in PRC.No.30 of 2012. At this stage, there is no scope to quash the case.

5.Heard both sides and perused the materials available in the records.

6.On perusal of records shows that the respondent herein has filed private complaint before the learned Judicial Magistrate, Rajapalayam alleging that on 26.05.2009, at about 04.00 pm., when the defacto complainant staying in his house, on the instigation of the petitioners herein, A4, who is the Inspector of Police, Rajapalayam South Police Station, picked up the complainant, without any valid reasons and kept him in the police station till the next morning, without providing any food or water. On 27.05.2009, A3 to A6 had taken the complainant to his garden. At that time, the petitioners herein gave a sum of Rs.5,000/- to A4 as bribe and started to damage the granite, which was contained the name of his father in the main gate and the same was prevented by the complainant. During the clash, A3 was holding the hands of the complainant from behind and the first petitioner was pointing a



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country made pistol on the forehead of the complainant and threatening him. The second petitioner was trying to cut his neck with a button knife. Therefore, according to the respondent, the petitioners herein committed the offence under Sections 341, 323, 427, 452, 109, 116, 119, 307 IPC and Section 25(1)(a) of the Arms Act, 1959.

7.On careful reading of the complaint it reveals that the allegations made in the complaint are vague. The allegations as against the petitioners are that they gave Rs.5000/- as bribe to the police and thereafter, the first petitioner threatened the respondent with country made gun and the second petitioner attempted to cut the neck of the respondent by using button knife. These allegations are bald and there is no specific allegations and there is no injuries sustained by the respondent. It is admitted fact that there is civil dispute pending between the parties and the respondent herein is none other than the brother of the second petitioner. While so, on the face of records, it shows that in order to convert the civil dispute into criminal case, the present complaint has been filed. Even according to the complaint, only vague allegations as against the petitioners herein and thereby, no prima facie materials available as against the petitioners. Without considering the same,



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the learned Magistrate has taken cognizance as against these petitioners.

8.Further, the complaint has not been lodged immediately after the occurrence. According to the complainant, the occurrence was taken place on 26.05.2009 and 27.05.2009, but the complaint was lodged only on 23.07.2009. That apart, the respondent has not approached the jurisdictional police station immediately after the alleged occurrence. Therefore, the attitude of the respondent shows his intention and the same is pure abuse of process of law. Therefore, as discussed supra, the present complaint pending before the learned Judicial Magistrate, Rajapalayam is liable to be quashed, in order to prevent the abuse of process of law.

9.In the result, this criminal original petition is allowed and the private complaint proceedings in PRC.No.30 of 2012 is quashed as against the petitioners herein. Consequently, connected miscellaneous petition is closed.

14.09.2023

Index :yes/No
Internet:yes/No
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The Judicial Magistrate, Rajapalayam



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P.DHANABAL, J

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Pre-Delivery Order
made in
CrI.O.P.(MD)No.4824 of 2020

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