



Crl.O.P(MD).No.8869 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.8869 of 2019

and

Crl.M.P.(MD)No.5636 of 2019

1.Chellappa
2.Chinnadurai

...Petitioners

Vs

1.State through,
The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.
(In Crime No.47 of 2019)

2.Paunraj

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the entire records connected with the proceedings in C.C.No.137 of 2019 pending on the file of the learned Judicial Magistrate, Sivagiri and quash the same as illegal.

For Petitioners	: Mr.R.Alagumani
For 1 st Respondent	: Mr.M.Sakthikumar
	Government Advocate (Crl. Side)
For 2nd Respondent	: Mr.M.Rajarajan

ORDER

This petition is filed to quash the charge sheet in C.C.No.137 of 2019



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pending on the file of the learned Judicial Magistrate, Sivagiri.

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2. According to the petitioners, the first petitioner is working as farmer and the second petitioner is working as Traffic Operating Points Man B in Southern Railway. Based on the complaint, FIR has been registered and thereafter, the first respondent without conducting proper investigation, filed final report. As per final report, the learned Judicial Magistrate has taken into cognizance in C.C.No.137 of 2019 for the offence under Sections 294(b), 353 and 506(i) of IPC and the same is pending.

3. According to prosecution case, on 15.02.2019, at about 05.30 p.m., the second respondent inspected the land for the purpose of constructing a water tank tower project. At that time, the petitioners criminally intimidated and abused in filthy language and gave life threat and thereby, they lodged a complaint on 21.02.2019. Based on the complaint, the first respondent registered FIR in Crime No.47 of 2019 for the offence under Sections 294(b), 353 and 506(i) of IPC.

4. In fact the petitioners belong to Hindu scheduled community and the petitioners are relatives of the second respondent and belonged to same village. At the time of alleged occurrence, the first petitioner was working in



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agricultural fields and the second petitioner was working as Traffic Operating Points in Southern Railway who had participated in Virudhunagar South Railway Training class for Class IV Staff (Operating) from 11.02.2019 to 16.02.2019. Therefore, no such occurrence was happened. The second respondent belonged to Christian scheduled case community. Hence, in the year 2000, there is civil dispute arose between the Hindu and Christian scheduled case communities people in Ayyapuram village. The second respondent's Christian scheduled caste community people filed a civil suit against the petitioners Hindu scheduled case community people to permit the public usage of Ayyapuram village. The suit in O.S.No.99 of 2000 is pending before the learned District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District. On 08.07.2004, the suit was dismissed by the learned District Munsif cum Judicial Magistrate, Sivagiri, Tirunelveli District.

5.The second respondent and his relatives continuously harassed the petitioners' community people. Therefore on 10.09.2018, the first petitioner on behalf of the his community people submitted a representation before the District Collector, Tirunelveli and requested to stop the process by the second respondent and his community people trying to demolish the Hindu worship temple. Thereafter, the first petitioner and his Hindu scheduled caste community people filed O.S.No.39 of 2018 before the District Munsif,



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Sivagiri not to construct any construction in the said patta land in Ayyapuram village in Survey No.728/3 measuring 91 cents. The second respondent belongs to ward no.33, Ayyapuram village, Puliyangudi Municipality. Subsequently, he was posted as Municipality Commissioner, Kadiyanellur and working as Municipality Commissioner (in charge), Puliyangudi for the past one year. Already the representation was given as against the second respondent due to his several financial irregularities. Therefore, the second respondent gave a false complaint against the petitioners with malafide intention. FIR in Crime No.47 of 2019 was filed only to harass the petitioners and no such occurrence was took place as alleged by the prosecution. The first respondent Police also without conducting fair investigation, filed final report and the same was taken cognizance by the learned Judicial Magistrate, Sivagiri. Therefore, the pending C.C.No.137 of 2019 on the file of the learned Judicial Magistrate, Sivagiri is liable to be quashed.

6.No counter has been filed on the side of the respondents.

7.The learned counsel appearing for the petitioners would contend that the second respondent lodged a false case against these petitioners and based on the complaint, the first respondent registered FIR without conducting proper investigation, filed final report and the same is pending before the



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learned Judicial Magistrate, Sivagiri. In fact on the date of occurrence, the petitioners were not at all present and on the date of occurrence, the second petitioner was in Virudhunagar under training. While so, due to previous enmity between the community people, the false complaint has been lodged. Already a civil suit was filed with regard to suit property and the same is also pending before the learned Judicial Magistrate, Sivagiri. Even according to the FIR and charge sheet, no specific allegation as against these petitioners and the allegations are vague and the second petitioner has produced the certificate from the Department that he was under training from 11.02.2019 to 16.02.2019. While so, in order to wreck vengeance, the present complaint has been lodged by the second respondent. The first respondent also without conducting proper investigation, filed final report. Therefore, the charge sheet in C.C.No.137 of 2019 pending before the learned Judicial Magistrate, Sivagiri is liable to be quashed.

8.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and after elaborate investigation, filed final report. As per final report, there are some eye witnesses to the occurrence and *prima facie* materials available to proceed with the case as against the petitioners. At this stage, the case against the petitioners cannot be quashed



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since the allegations are serious in nature. Further they restrained the public servant from doing official duty. The petitioners have to face the trial and the petition is liable to be dismissed.

9.The learned counsel appearing for the second respondent would contended that on the date of occurrence, when the second respondent visited an official visit to construct the water tank for the public, the petitioners abused obscene words and pelted stones towards him and they restrained the public servant from discharging official duty. The second respondent along with other officials returned back without measuring the property. As per FIR and final report, there are *prima facie* materials to proceed as against these petitioners. The plea of alibi is the defence to be taken before the trial Court. While exercising power under Section 482 of Cr.P.C., this Court cannot entertain the defence of alibi. These petitioners have to face trial and the petition is liable to be dismissed.

10.To substantiate his claim, he relied upon the following judgments:-

(I)Ramveer Upadhyay and another v. State of U.P. And another reported in 2022 SCC Online SC 484

(ii)C.Gunasekaran v. State reported in 2022 SCC Online Mad 3002



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11.Heard both sides and perused the materials available on records.

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12.On perusal of the records, it is admitted fact that the petitioners and the second respondent belongs to same village and already there is civil dispute pending between the parties and according to the second respondent, on the date of occurrence, these petitioners have abused in filthy language and pelted stones on him. They restrained the public servant from discharging official duty.

13.The learned counsel appearing for the petitioner has brought to the knowledge of this Court that already there is an enmity between the petitioners and the second respondent with regard to religion. These petitioners belong to Hindu scheduled community and the second respondent belongs to Christian scheduled community. There is previous enmity between them. Already the petitioners sent a representation before the District Collector as against the second respondent on 10.09.2018 itself and the copy of the compliant was produced. Further the petitioners produced the copy of the training order of the second petitioner.

14.On perusal of the complaint, it reveals that already there is a civil dispute pending between the second respondent and petitioners. The second



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petitioner was under training from 11.02.2019 till 16.02.2019 at Virudhunagar. The date of occurrence is 15.02.2019. But on the date, the second petitioner was in training. It is true that Alibi is defence to be taken before the trial Court. There are some enmity between the parties and the allegations made against the petitioners are vague and nobody was injured in the case and the first petitioner is aged about 70 years and the complaint was also lodged as against the second petitioner, who was in training at Virudhunagar on the alleged date of occurrence. These circumstances shows that the complaint was given due to the previous motive between the parties with malafide intention. Even assuming that the occurrence was true, it is admitted fact that already the first petitioner has filed suit with regard to suit property. While pending of the suit, these petitioners entered into the disputed land. While so, in order to protect the right of the petitioners, there will be chance for wordy quarrel. Due to wordy quarrel, the complaint was lodged by alleging that they restrained the public servant from discharging the duty. Even according to the averments of the complaint, the allegations are vague and in order to protect the rights of the petitioners, they made quarrel and in that aspect, the case against the petitioners is trivial in nature and thereby, this Court can quash the FIR.



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15.The learned counsel appearing for the petitioners relied upon the

following judgments:-

(I)Satpal Singh v. State of Haryana reported in (2010) 8 SCC 714

(ii)Ramachandran and others v. State reported in 2012 (3) MWN (Cr.)
266 (DB)

(iii)Manik Taneja and another v. State of Karnataka and another
reported in (2015) 7 SCC 423

(iv)Abdul Agis and State and another in Crl.O.P.(MD)No.11030 of
2014

(v)V.Sivakumar and others v. State and another in Crl.O.P.No.6173 of
2021

(vi)Ki.Ve.Ponnaiyan and Others v. State and another in Crl.O.P.No.134
of 2021

(vii)K.Sivakumar and others v. State and another in Crl.O.P.No.25400
of 2021

(viii)N.S.Madhanagopal and another v. K.Lalitha reported in 2022 SCC
Online SC 2030

(ix)Meeran Mytheen v. State and another in Crl.O.P.(MD)No.20004 of
2022

(x)C.Jotheeswaran v. State and another in Crl.O.P.No.1263 of 2021



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16. On careful perusal of the said judgments, it is clear that the prosecution has to explain the delay in lodging the complaint and registration of FIR and it is clear that when the allegations made in the FIR does not constitute any offence and based on the vague allegations, if the complaint given on malafide intention and to prevent the abuse of process of Court, the FIR can be quashed. In the case on hand also, there is dispute pending between the petitioners and the second respondent and the second petitioner was not at all present in the scene of occurrence and the complaint was lodged with malafide intention and the matter is trivial in nature.

17. The learned counsel appearing for the second respondent relied upon the following judgments:-

(I) Ramveer Upadhyay and another v. State of U.P. And another reported in 2022 SCC Online SC 484.

(ii) C. Gunasekaran v. State reported in 2022 SCC Online Mad 3002.

18. On careful reading of the said judgments, it is clear that in exception cases, for preventing the abuse of process of Court, the High Court can exercise of its inherent power under Section 482 of Cr.P.C., quash criminal proceedings. However, interference would only be justified when complaint



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did not disclose any offence or was patently frivolous, vexatious or oppression. In the case on hand also, there is a motive between the second respondent and the petitioners in respect of religious and temple, thereby the complaint was given with malafide intention.

19.In view of the aforesaid judgments and as discussed above, this Criminal Original Petition is allowed and the charge sheet in in C.C.No.137 of 2019 pending on the file of the learned Judicial Magistrate, Sivagiri is quashed. Consequently, connected miscellaneous petition is closed.

26.09.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Judicial Magistrate, Sivagiri.

2.The Inspector of Police,
Puliyangudi Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P.DHANABAL, J.

Mrn

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