



Crl.O.P.(MD).No.11784 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.11784 of 2020

and

Crl.M.P(MD) Nos.5394 of 2020 and 11076 of 2022

Eswaran

... Petitioner

Vs.

1. The Deputy Superintendent of Police
Theni District,Theni

2. The Inspector of Police
Bodinaickanur Town Police Station
Bodinaickanur
Theni District

3.K.Muruan

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the First Information Report in Crime No.2650 of 2020 on the file of the second respondent and quash the same in so far the petitioner is concerned.

For Petitioner : Mr.B.Prahalad Ravi

For R.1& R2 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R3 : Mr.A.Udhayakumar



ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.2650 of 2020 on the file of the second respondent police.

2. According to the petitioner the petitioner is the first accused in this case. Based on the complaint given by the third respondent the second respondent registered a case in crime No. 2650 of 2020. There is a civil dispute between the parties. The petitioner is the Manager under one B.Muthuveerasuruliammal who is the wife of Jaminthar namely Vadamalaimuthu Seelarajapandiya Naicker. The jamin properties were sold to the third respondent and the third respondent was the mediator to the purchase of the above said property. The property was under the occupation of Haither Ali and Mohamed Raja. There is some dispute with regard to vacate the above said property and thereby the third respondent has lodged a false complaint alleging that on 27.07.2020 at about 11.30 a.m., the defacto complainant along with his relative one Anandha murugan went to the house of Muthuveerasuruliammal at that time the petitioner was standing outside the house. The second respondent asked about the receipt of money and to vacate the premises and at that time the petitioner scolded the second respondent by using his caste name and thereafter they approached the said Haither Ali and



Mohamed Raja but they stated that there is some money transactions between them and the petitioner and they also scolded the defacto complainant by abusing his caste name. Hence he gave complaint before the Deputy Superintendent of Police, Theni and summons were issued directing to appear on 26.08.2020, but the petitioner and others did not appear for enquiry. Thereafter on 03.09.2020 the third respondent appeared before the Deputy Superintendent of Police, Theni for enquiry and the petitioner also appeared for enquiry. The defacto complainant was under the impression that the petitioner will ask apology but he has not done so.. Since they have not realized their mistake and sought apology again he gave complaint dated 18.09.2020 and based on that complaint First Information Report has been registered . Infact no such occurrence happened. Even as per the complaint it is hearsay and same was informed to one Anandhamurugan . Therefore the First Information Report is abuse of process of law. There is a civil dispute between the parties and inorder to wreck vengeance the present complaint has been filed, hence the First Information Report is liable to quashed.

3. The learned counsel appearing for the third respondent filed counter stating that the third respondent lodged a complaint and based on that complaint the First Information Report has been registered in Crime No. 2650 of 2020 for the offences under Sections 294(b),506(ii) of IPC r/w.Sectopm 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST(PoA) Amendment



Act, 2015. The property in S.No.151 to an extent of was purchased by the third respondent and this petitioner was acted as mediator and he obtained Rs.10,00,000/- and two motor bikes as commission. At the time of purchase the second and third accused were under possession and enjoyment and the petitioner also assured to vacate the second and third accused, thereafter he failed to vacate the second and third accused and when the same was questioned by the defacto complainant the accused persons abused him using his caste name and also threatened him, thereby he lodged complaint and the case has to be investigated by the first respondent and the case is at the initial stage. The accused and others uttered caste name within public view and thereby *prima facie* materials available as against these petitioners and the investigation is still pending at the initial stage, therefore this petition is liable to be dismissed.

4. The learned counsel appearing for the petitioner would contend that the third respondent has given false complaint against this petitioner and due to enmity with regard to the civil dispute. Based on the false complaint given by the third respondent the First Information Report has been registered. Even as per the complaint and the First Information Report no occurrence said to have taken place. The third respondent and one Anadhamurugan informed about the occurrence and thereby the offence under the provisions of SC/ST would not attract.



Already the third respondent has filed civil suit and the same is also pending and in the civil case he has not mentioned about the happenings. Already the third respondent gave complaint before the first respondent and the first respondent also conducted enquiry. While pending enquiry the third respondent has filed this present complaint and the same is abuse of process of law, thereby the First Information Report is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would contend that based on the complaint given by the third respondent the second respondent registered the First Information Report and the case was investigated and due to the stay granted by this Court they are unable to file final report. As per the First Information Report and investigation there are *prima facie* materials available as against this petitioner to proceed with the case and thereby at this stage the petition is liable to be dismissed.

6. The learned counsel appearing for the third respondent sought adjournment. Since the matter is pending at part heard stage this Court heard the arguments of the learned counsel for the petitioner and the learned Government Advocate(Crl.Side) and inclined to pass orders.



7. Heard both sides and perused the materials available on record.

8. On perusal of the records it is observed that the third respondent gave complaint as against the petitioner and the second respondent has registered the First Information Report for the occurrence that happened on 27.07.2020 and 18.09.2020. According to the complaint the petitioner and others abused the caste name of the defacto complainant within the public view when he asked to vacate the shop purchased by him. The Investigation Officer investigated the case and the investigation was also completed. As per the investigation *prima facie* materials are available as against this petitioner and no material available as against other accused and theyby they deleted the name of the other accused. On perusal of the complaint there are *prima facie* materials available to constitute the offence under the SC/ST(PoA) Act and the police also investigated the case. As per the investigation also *prima facie* materials available as against this petitioner and thereby at this stage without any trial this case cannot be decided and it needs elaborate trial. Therefore this Court is of the opinion that there is no merits in this petition and it deserves to be dismissed.



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9. In view of the above discussions this petition stands dismissed. Consequently connected miscellaneous petitions are closed.

24.08.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Deputy Superintendent of Police
Theni District, Theni
2. The Inspector of Police
Bodinaickanur Town Police Station
Bodinaickanur
Theni District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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