



Crl.O.P.(MD).No.12555 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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1.Prem Singh

2.Kantharajan

3.Shanmugam

4.Ayyappan

5.Kriubakaran @ Kirubavijay Anand

6.Varatharajan

... Petitioners

Vs.

Ramakrishnan

... Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in C.C.No.693 of 2020, on the file of the learned Judicial Magistrate Court No.VI, Madurai and quash the same.



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For Petitioner : Mr.T.Veerakumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.693 of 2020, on the file of the learned Judicial Magistrate Court No.VI, Madurai.

2. The petitioners are the accused in C.C.No.693 of 2020. Earlier, this Court issued direction to the petitioners to take private notice to the defacto complainant. The same was effected, but the defacto complainant did not appear. Thereafter, this Court directed the learned Additional Public prosecutor to serve notice to the defacto complainant, through the jurisdictional police station and the same was also served. Again there was no representation on behalf of the defacto complainant. Therefore, this court ordered paper publication. In spite of several attempts made, the defacto complainant has not chosen to appear before this Court to conduct this case.



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3. The learned counsel for the petitioners submitted that the jurisdictional police, upon receipt of the complaint from the defacto complainant/respondent, registered a case in Crime No.237 of 2019 and the same was investigated by the investigating officer and a negative report was filed before the learned Judicial Magistrate Court No.VI, Madurai. The learned Judicial Magistrate, issued notice to the defacto complainant, namely, the respondent and he also filed protest petition. The protest petition was considered by the learned trial Judge and the same was taken on file in C.C.No.693 of 2020. The learned Judicial Magistrate, disbelieved the theory of conspiracy between the accused and had taken cognizance only for the offence under Sections 294(b), 324, 506(i), 323 and 324 of IPC. Challenging the same, the petitioners herein have filed this criminal original petition.

4. This Court looked into the averment made in the complaint, protest petition, the closure report, and all other relevant records. Even as per the protest petition and the version of FIR, the defacto complainant, namely, the respondent alone had flung the helmet towards one of the



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accused persons.

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5. As per the version spoken by the witnesses and according to the investigation report, defacto complainant himself sustained injuries. Therefore, the learned Judicial Magistrate has not properly applied his mind while taking cognizance. Further, the jurisdictional investigating officer conducted the detailed enquiry and filed a negative report. During the course of investigation, he examined number of witnesses from the locality and some of the witnesses stated that the respondent alone used abusive words against the TM Nagar residents Association. Even all the witnesses stated that the defacto complainant used abusive words against the elders of the association. In the said circumstances, taking cognizance by the learned trial Judge is not in accordance with law.

6. Further, the defacto complainant/respondent stated that the investigating officer colluded with the accused party and falsely filed the final report. This Court perused the report and found that the investigating officer has done the investigation properly, after collecting the evidences



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and examining number of witnesses and has filed the negative report in accordance with law. Hence, this Court is inclined to quash the proceedings against the petitioners.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.693 of 2020, on the file of the learned Judicial Magistrate Court, No.VI, Madurai, is hereby quashed as against the petitioners.

23.11.2023

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

To

1.The Judicial Magistrate Court No.VI,
Madurai.



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K.K.RAMAKRISHNAN, J.

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