



Crl.O.P.(MD).No.13316 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT.

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Dated : 18.10.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.13316 of 2020

and

Crl.M.P.(MD).Nos.6111 & 6112 of 2020

1.Subramaniyan

2.Nallakannu

3.Murugan

4.Palraj

5.Navaneetha Perumal

6.Senthil @ Thalavai

7.Sankaraperumal

8.Kannan

... Petitioners

Vs.

1.State rep by

The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City.
(Crime No.245 of 2018)

2.Subramaniyan

Sub Inspector of Police,
Melapalayam Police Station,
Tirunelveli City

... Respondents



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PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in C.C.No.437 of 2020 on the file of the Judicial Magistrate No. IV, Tirunelveli and quash the same.

For Petitioner : Mr.V.Kathirvelan
Senior Counsel for
Mr.K.Prabhu

For Respondents : Mr.M.Muthumanikkam
Government Advocate (Crl.Side) for R1

: No appearance for R2

ORDER

This Criminal Revision Case has been filed by the petitioners to quash proceedings initiated as against them in C.C.No.437 of 2020, on the file of the Judicial Magistrate No. IV, Tirunelveli.

2. The petitioners are the accused Nos.1 to 8 in Crime No.245 of 2018 on the file of the first respondent police. On 29.07.2018 at about, 08.15.pm., while the Arulmighu Muppudathi Amman Temple Festival, was going on, aadal padal cultural programme was also conducted. During that time, there was some commotion and the petitioners abused the officer in charge of the overseeing the arrangement. For the said allegation, the FIR was registered for the offences



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under Sections 147, 294(b), 353 and 506(i) of IPC. The said FIR culminated into final report and the same was taken on file in C.C.No.437 of 2020 on the file of the Judicial Magistrate No.IV, Tirunelveli.

3. The learned counsel for the petitioners submitted that the entire reading of the report as well as the deposition of the witnesses collected during the investigation even if taken into consideration, the offences under Sections 147, 294(b), 353 and 506(i) of IPC are not made out, for which, he placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Manik Taneja and another Vs. State of Karnataka and another*** reported in ***(2015) 7 SCC 423*** and the order of this Court in ***Crl.O.P.(MD).No.10932 of 2019*** and he sought to quash the proceedings as against the petitioners herein.

4. The learned Government Advocate (Crl.Side) on the other hand submitted that all the ingredients were made out and they intentionally abused the public servants. Therefore, the offence under Sections 147, 294(b), 353 and 506(i) of IPC are made out.



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5. This Court considered the rival submissions made by the learned counsel appearing for the petitioners as well as the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record and the precedents relied upon by them.

6. The questions raised by this Court is whether the offences under Section 147, 294(b), 353 and 506(i) of IPC was made out on the basis of the material collected by the investigating agency during the course of the investigation. The allegation itself shows that the petitioners abused the officers and there was no force used in this case and hence, the offence under Section 353 of IPC was not made out. Before considering the materials on record, we may usefully refer to Section 353 of IPC which reads as follows:

“353. Assault or criminal force to deter public servant from discharge of his duty:- *whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”*



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6.1.A reading of the above provision shows that the essential ingredients of the offence under Section 353 of IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the petitioners either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the un-controverted allegations in the considered opinion of this Court, the ingredients of the offence under Section 353 of IPC are not made out.

7. Further, from the above reading of the final report and the contents of the FIR, this Court finds that the offences under Sections 294 and 506(ii) of IPC are also not made out. In the FIR as well as the final report there was no mentioning of the date of the alleged occurrence of criminal intimidation and abuse. Even in the FIR, there was no allegation against these petitioners. Even though FIR is not an encyclopaedia, the material particulars relating to the



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criminal intimidation have to be mentioned. The same is absent in the case. From the above, it is clear that the above accused are falsely implicated in this case.

8.From the above averment, the offences under Sections 294(b) and 506(i) of IPC are not made out. Section 294(b) of IPC is concerned, the same has not occurred in the public place and as far as Section 506(ii) of IPC is concerned, as per the law laid down by the Hon'ble Supreme Court, in the case of ***ParminderKaur Vs. State of Punjab*** reported in ***2020 8 SCC 811*** no assault was made, which was a material ingredient of Section 506(i) of IPC. Hence, this Court finds merit in the contention of the petitioners and the continuation of the proceedings against these petitioners is abuse of process of law. FIR and charge sheet can be quashed if allegations or evidence do not establish commission of an Offence. The decision of the Court is to exercise or not to exercise the inherent powers u/s 482 of the Cr.P.C. Considering the above, this Court has no hesitation to hold that the impugned proceedings in C.C.No.437 of 2020, pending on the file of the learned Judicial Magistrate No.IV, Tirunelveli are liable to be quashed.



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9. In the result, this Criminal Original Petition is allowed and the impugned proceedings in C.C.No.437 of 2020, pending on the file of the Judicial Magistrate Court No.IV, Tirunelveli, as against the petitioners are hereby quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

18.10.2023

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

To

- 1.The Judicial Magistrate No.IV,
Tirunelveli.
- 2.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City.
- 3.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

sbn

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