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CRL.OP.(MD)No.14722 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.11.2022

DELIVERED ON : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)No.14722 of 2022

and

CRL.MP.(MD).No.9552 of 2022

1. Sukumaran
2. Muthu Maruthu
3. Elangovan : Petitioners/Accused 2,3 & 4

Vs.

1. The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District. : 1st Respondent/Complainant
(Cr.No.279/2019)
2. Govindaraj : 2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.44 of 2020 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District and quash the same as against the Petitioner.

For Petitioners : Mr.C.Jegannathan
For Respondents : Mr.R.Siva Kumar
Government Advocate (Crl. Side) for R1
: Mr.R.Velmurugan for R2

ORDER



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This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.44 of 2020 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District.

2. The brief facts, which are necessary to decide this Criminal Original Petition, are as follows:

2.1.The second Respondent had given a complaint before the first Respondent Police claiming that he is a Trustee of Vellalar Sabhai at Paramakudi. The said Sabhai owns ambulance bearing Registration No.TN-65-W-6705 which is meant for public purposes. One Rajagopal was the Managing Trustee of the said Sabhai. After the death of the said Rajagopal, the ambulance belonging to the Vellalar Sabhai was sold illegally by the Petitioners and one Jayaraman who is arrayed as Accused No.1 and one Nagasundaram is arrayed as Accused No.5 in the charge sheet in C.C.No.44 of 2020 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District for the offences under Sections 147, 148, 294(b), 341, 352, 355 and 506(ii) of IPC which was subsequently altered for offences under Sections 147, 148, 294(b), 341, 352, 355 and 506(ii) of IPC and Section 379 of IPC respectively. It is alleged that the said Accused had sold the ambulance for a sum of Rs.5,22,000/- (Rupees Five Lakhs and Twenty Two



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Thousand only). The sale proceeds had not been deposited in the account of the Vellalar Sabhai Trust. The said amount was misappropriated by the Petitioners. The De-facto Complainant is alleged to have questioned the act of the Petitioners. When the De-facto Complainant was in his agricultural farm on 26.08.2018 by around 6.30 p.m. the Petitioners and others had abused the complainant in filthy language and attacked the De-facto Complainant. Based on the complaint given by the second Respondent as De-facto Complainant, the FIR in Crime No.279 of 2019 was registered on the file of the Paramakudi Town Police Station, Ramanathapuram District against six persons. The Petitioners are arrayed as A-2, A-3 and A-4. The case was registered under Section 147, 148, 294(b), 341, 352, 355, 420 and 506(ii) of IPC. During the course of the investigation, A-1 and A-5 died. After investigation, the name of A-2 was deleted by the Investigation Officer. On completion of the investigation, the first Respondent had laid the final report before the Court of the learned Judicial Magistrate, Paramakudi who had taken cognizance of the same for offences under Sections 147, 148, 294(b), 341, 352, 355, 506(ii) and 379 of IPC against the Petitioners and other Accused. The case was taken on file as C.C.No.44 of 2020 and is pending on the file of the learned Judicial Magistrate, Paramakudi.

3. The learned Counsel for the Petitioners submitted that the De-facto



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Complainant/second Respondent as Complainant has preferred Complaint

before the Court of the learned Judicial Magistrate, Paramakudi, in Crl.M.P.No.

2607/2019. The learned Judicial Magistrate had dismissed the said Complaint

after recording the statement of Witnesses. Since the offences alleged in the

Complaint were not made out, the Complaint was dismissed. The second

Respondent had preferred Crl.O.P.(MD).No.10182/2019 seeking to set aside

the Order of the learned Judicial Magistrate, Paramakudi in Crl.M.P.No.

2607/2019 and consequently direct the first Respondent to register the case.

Crl.O.P.(MD).No.10182/2019 was dismissed based on the submission of the

learned Government Advocate (Crl. Side) stating that the case was registered in

Cr.No.279/2019 for the offences under Sections 147, 148, 294 (b), 341, 352,

355, 506(ii) and 379 IPC. After the investigation, final report was laid before

the Court of the learned Judicial Magistrate and the learned Judicial Magistrate

had taken cognizance of the same in C.C.No.44 of 2020. Therefore, Crl.O.P.

(MD).No.10182/2019 was dismissed as infructuous on 03.12.2021. It is the

further contention of the learned Counsel for the Petitioners that the earlier

Complaint was given as though that the President of Vellalar Sabhai,

Paramakudi has no authority to sell the Ambulance belonging to the Vellalar

Sabhai. The President of Vellalar Sabhai viz., Rajagopal himself had given

explanation to the Regional Transport Officer, Ramnad, denying all the



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allegations made by the De-facto Complainant. Also, he had stated that after getting proper permission, he had sold the vehicle. Subsequently, the second Respondent had given a Complaint as though the Petitioners herein and others had threatened him with regard to the sale of the Ambulance belonging to the Vellalar Sabhai, Paramakudi. In the earlier Complaint filed in CrI.M.P.No. 2607/2019, the second Respondent as Complainant had stated that the vehicle was sold by one Sundaresan. In the present Complaint, it is stated that the Petitioners alone sold the vehicle. Therefore, the Complainant himself had given contrary statement. Further, there had been rivalry among the Members of the Vellalar Sabhai, Paramakudi. One Gurujayaraman had given Complaint against the Respondent herein, Karthikeyan and Vinsent Jeyakumar for creating forged documents as though some resolutions were not passed in the Sabhai. Based on which, the case in Cr.No.12/2019 was filed by the District Crime Branch, Ramanathapuram. As a counter blast, the present Complaint has been foisted against the Petitioners herein by the second Respondent that there are different dates with regard to the cause of action regarding the sale of ambulance. In the earlier Complaint, it was stated that one Sundaresan had sold it. In the present Complaint, it is stated that the Petitioners had sold it. It is the contention of the learned Counsel for the Petitioners that suppressing the earlier Complaint filed by the second Respondent which was dismissed by the



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learned Magistrate, the present Complaint had been filed against these Petitioners. Therefore, the Petitioners seek to quash the charge sheet filed in C.C.No.44 of 2020 based on the alleged occurrence is 26.08.2019 and the date of FIR is 04.09.2019.

4. The learned Counsel for the second Respondent submitted that the earlier Complaint given by the Complainant was received by the first Respondent. Since no action was taken, he had filed CrI.M.P.No.2607/2019 to register FIR. Since CrI.M.P.No.2607/2019 was dismissed, he had filed CrI.O.P.(MD).No.10182/2019. When CrI.O.P.(MD).No.10182/2019 came up for hearing, the Prosecution filed report that as per the Complaint preferred by the second Respondent, investigation was completed and final report laid. Therefore, CrI.O.P.(MD).No.10182/2019 was dismissed. Now, the case in C.C.No.44 of 2020 is pending on the file of the learned Judicial Magistrate, Paramakudi. Therefore, it is not a fit case for quashing it. What had been argued by the learned Counsel for the Petitioners is to be treated as valuable defence available to the Petitioners which can only be considered by the trial Court. This Court exercising extraordinary powers under Section 482 Cr.P.C., cannot consider those submissions raised by the Petitioners which is nothing but valuable defence. The fact that Ambulance worth about 10 lakhs was sold



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by the few Trustees, without permission from the Board of Trustees for lesser value of Rs.5,60,000/-.

5.The learned Government Advocate (Crl. Side) submitted that it is not a fit case for quashing at this stage, what had been raised by the Petitioners are to be treated as valuable defence available to them which cannot be considered by this Court while exercising powers under Section 482 Cr.P.C., Therefore, this Petition ought to be dismissed as having no merits.

6. Point for Consideration

Whether the charge sheet in C.C.No.44 of 2020 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District is to be quashed?

7. On perusal of the typed set wherein the copy of the earlier Complaint and the copy of the Order passed by the learned Single Judge of this Court in Crl.O.P.(MD).No.10182/2019 and the statement of the witnesses are found. What are all stated by the Petitioners herein cannot be considered by this Court. The points raised by these Petitioners are that this case had been filed as counter blast to the earlier Complaint preferred by one Gurujayaraman against the Respondents and others before the District Crime Branch,



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Paramakudi. That cannot be considered by this Court. As rightly pointed out by the learned Counsel for the second Respondent as well as the learned Government Advocate (Crl. Side), the points raised by the learned Counsel for the Petitioners are found to be valuable defence available to them which cannot be considered by this Court while exercising extraordinary powers under Section 482 Cr.P.C., as per the reported ruling of the Hon'ble Supreme Court in ***AIR 1992 SC 604*** in the case of ***State of Haryana Vs. Ch. Bhajan Lal***.

8. In the light of the above discussion, Point for Consideration is answered against the Petitioners and in favour of the Respondents.

In the result, this ***Criminal Original Petition is dismissed***. The case in C.C.No.44 of 2020 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District cannot be quashed. Consequently, the connected miscellaneous petition is closed.

13.06.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order
dh



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To

1. The Judicial Magistrate,
Paramakudi,
Ramanathapuram District
2. The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
3. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

dh

Order made in

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