



Crl.O.P.(MD).No.15258 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.15258 of 2020

and

Crl.M.P(MD).No.7367 of 2020

1.K.Anthoniammal

2.K.Annarani

... Petitioners

Vs.

1.State rep by

The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District.
[Crime No.283 of 2020]

2.S.Senthilkumar

...Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records relating to the Crime No.283 of 2020, on the file of the first respondent and quash the same as illegal in as much as these petitioners are concerned.

For Petitioners : Mr.V.S.Kishok Kumar

For Respondents : Mr.P.Kottaichamy
Government Advocate(Crl.Side) for R1



Crl.O.P.(MD).No.15258 of 2020

ORDER

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This Criminal Original Petition has been filed by the petitioners to quash the proceeding initiated against them in Crime No.283 of 2020.

2.The petitioners are the accused Nos.2 and 3 in Crime No.283 of 2020. As per the FIR allegation, there was a dispute between the *defacto* complainant and the petitioner's family. In the said dispute, the first accused, namely, Anthony Raj and his brother A3 were said to have assaulted the *defacto* complainant. Therefore, the respondent police registered the case for the alleged offences punishable under Sections 294(b), 342, 307 and 506(ii) r/w 34 of IPC.

3. The learned counsel for the petitioners submitted that even as per the averment and also the alteration report, the petitioners reached the spot after the assault made by the first accused. In the said circumstances, the allegation against the petitioners in the FIR is false. Hence, the learned counsel for the petitioners sought for quashing of FIR on the basis of the judgment of the Hon'ble Supreme Court in the case of ***State of Haryana Vs. Bhajanlal***, reported in ***1993 (3) Suppl SC 262***. In the said guidelines issued by the Hon'ble Supreme Court, this case comes under the last category, namely, *malafide* on the part of



Crl.O.P.(MD).No.15258 of 2020

the *defacto* complainant to implicate all the family members of A1. Therefore, he seeks for quashing.

4. The learned Government Advocate (Crl.Side), on instructions, submitted that whether the material was sufficient or not is a matter for investigation. The mere averment with *malafide* in the peculiar circumstances of this case can not be proceeded. In the said circumstances, he seeks for dismissal of this case.

5. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, the occurrence took place on 18.07.2020. The *defacto* complainant made the complaint on the day itself. In the complaint, there is no specific averment against the petitioners. The *defacto* complainant also made a statement under Section 161 of Cr.P.C., on 16.07.2020 without any allegation against these petitioners. Subsequently, on the next day on 17.07.2020, the allegation was made against the petitioners with the specific averment that the petitioners also reached the spot and abetted A1 to commit assault upon the



Crl.O.P.(MD).No.15258 of 2020

defacto complainant. The said version of the *defacto* complainant is to be tested with the date of receipt of the FIR to the Court. The FIR reached the Court on 20.07.2020. According to the prosecution, the alternation report was filed on 19.08.2020. In view of the above belated reaching of the alternation report, the submission of the learned counsel for the petitioner that it was a calculative attempt to rope the petitioner with all *malafide* intention and the same was made due to motive against the family members of the petitioner, due to existing dispute is evident from the FIR itself. Hence, as held by the Hon'ble Supreme Court, the motive is the double edged weapon. The said weapon was used by the *defacto* complainant to falsely implicate the petitioner in this case. In the said circumstances, the petitioner's case squarely comes under the last category of the case of ***State of Hariyana Vs. Bajanlal*** reported in ***1993 (3) Suppl SC 262***.

7. Accordingly, this Criminal Original Petition stands allowed and the proceedings initiated in Crime No.283 of 2020 on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

24.11.2023

NCC : Yes/No
Index : Yes/No
sbm



Crl.O.P.(MD).No.15258 of 2020

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- To
1. The Inspector of Police,
Ambasamudram Police Station,
Ambasamudram,
Tirunelveli District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 3. The Section Officer
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P.(MD).No.15258 of 2020

K.K.RAMAKRISHNAN, J.

sbn

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