



Crl.O.P.(MD)No.15983 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **21.04.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.15983 of 2020
and
Crl.M.P.(MD)No.7915 of 2020

Ajmath Bakkir Mohideen ... Petitioner/Accused No.1

Vs.

1.The State rep. by

The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.

... 1st Respondent / Complainant

2.Radhakrishnan

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in Crime No. 397 of 2016 pending on the file of the first respondent police and to quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

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

: No appearance for R2



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ORDER

This petition is filed to quash the F.I.R in Crime No.397 of 2016 pending on the file of the first respondent police.

2. The allegation against the petitioner is that the second respondent while working as an Executive Officer at Kayathar Panchayat, on 30.09.2016, was informed that eleven named persons and 75 unnamed persons, hailing from Wards Nos.7, 8 and 9 of Kayathar village, came to the office and they picked up quarrel and prevented the Judicial Assistant – Singaraj from doing his official duty and that at the time of occurrence, the Assembly Election was scheduled and code of conduct was in force. A case in Crime No.397 of 2016 for the offences under Sections 147, 188, 151, 353, 171(C) and 506(i) of I.P.C was registered against the petitioner and others.

3. On the side of the petitioner, it is stated that as per Section 195 of Cr.P.C., for an offence punishable under Section 188 of I.P.C, only private complaint can be lodged and the F.I.R under Section 188 of I.P.C is not maintainable.



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4. To substantiate this claim, a judgment of this Court reported in **2018-2-LW(Crl.)-606 (Jeevanantham and others V. State rep. by the Inspector of Police, Velayathampalayam Police Station, Karur District)**, is cited, on the side of the petitioner.

5. On the side of the petitioner, it is further stated that the allegations are vague and no specific instances was mentioned, who committed a particular act on the date of occurrence, was not stated in the F.I.R. The second respondent was not in station on the date of alleged occurrence and he has no *locus standi* to file the complaint and hence, Section 353 of I.P.C is not made out. Since the second respondent was not personally present, intimidation and apprehension on account of the threat were not made out and Section 506(i) of I.P.C is not made out.

6. On the side of the prosecution, it is stated that already investigation was over, charge sheet was ready on 29.10.2016 itself, that is prior to the filing of this case. Section 188 of I.P.C was already deleted and the charge sheet was filed under Sections 147, 151, 353, 171(C) and 506(i) of I.P.C. Though charge sheet was already ready, due to the pendency of the stay order, the case could not be taken on file by the Judicial Magistrate No.II, Kovilpatti.



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7. Since the charge sheet was ready, even before the filing of the quash petition and since Section 188 of I.P.C., was already deleted by the respondent police, this Petition is dismissed as infructuous. Liberty is given to the petitioner to contest the case. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

21.04.2023

To

1.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

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