



Crl.O.P(MD).No.16649 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.16649 of 2019

and

Crl.M.P.(MD)No.9880 of 2019

Bensam

...Petitioner

Vs

Jegadeesh

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the entire records pertaining to the private complaint in S.T.C.No.375 of 2018 pending before the learned Judicial Magistrate, Bhoothapandi, Kanyakumari District filed under Sections 190 and 200 of Code of Criminal Procedure and quash the same as illegal.

For Petitioner	: Mr.G.Anto Prince
For Respondent	: Mr.M.Sankar

ORDER

This petition is filed to quash the complaint in S.C.No.375 of 2018 on the file of the learned Judicial Magistrate, Bhoothapandi, Kanyakumari District.

2.According to the petitioner, the respondent filed private complaint alleging that on 28.11.2017, the petitioner went to Bhooathapandi police



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station and on the date, the petitioner made three women to foist a false complaint against the respondent and thereafter, abused the petitioner and locked him up in a cell and physically assaulted the petitioner. Thereafter on 29.11.2017, the respondent's statement was recorded. No action was taken. Hence, the respondent made a complaint to the Superintendent of Police on 11.01.2018. Since the Superintendent of Police did not take action, the respondent filed a private complaint before the learned Judicial Magistrate, Bhoothapandi under Sections 190 and 200 of Cr.P.C., for the offence under Sections 166A, 294(b), 323, 506(i) of IPC. In fact the case of the respondent is false and devoid of merits. The respondent is accused in Crime No.520 of 2017 dated 28.11.2017 and he has foisted this instant case with malicious intention and ulterior motive. The respondent 's case was investigated and the same was closed as 'mistake of fact'. The respondent has not filed protest petition regarding closure report. In order to harass the petitioner and to wreck vengeance, this complaint has been lodged. Therefore, the pending complaint in S.T.C.No.375 of 2018 is abuse of process of law and liable to be quashed.

3.No counter has been filed on the side of the respondent.

4.The learned counsel appearing for the petitioner would contend that the petitioner is working as police official and he registered a case against the

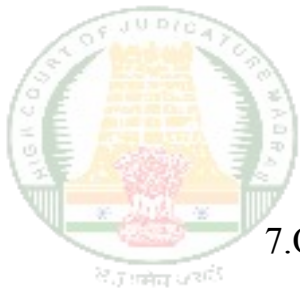


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respondent herein and due to wreck vengeance, the present complaint has been lodged with false allegations. Already the respondent gave a complaint and the same was also closed as 'mistake of fact'. Thereby, the respondent herein filed a private complaint alleging that this petitioner assaulted and abused in obscene words and caused criminal intimidation. No such occurrence was happened and thereby, the pending private complaint is liable to be quashed.

5.The learned counsel appearing for the respondent would contend that the petitioner abused in obscene words and assaulted and caused criminal intimidation to the respondent. Already he gave a complaint before the petitioner and they closed the case as 'mistake of fact'. When he asked about the same, the petitioner assaulted him and thereby, he filed this complaint and there are *prima facie* materials available as against the petitioner and thereby, the learned Magistrate has taken cognizance and the same is pending in S.T.C.No.375 of 2018. Moreover P.W.1 was examined before the trial Court and now the case is pending for examination of other witnesses. Therefore, this petition is liable to be dismissed.

6.This Court heard both sides and perused the materials available on records.



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7. On perusal of the records, it is observed that as per the complaint, there are *prima facie* materials available to proceed with the case and the allegation levelled in the complaint constitutes some offences. As per complaint, the learned Magistrate also taken cognizance based on *prima facie* materials. Now the case has been posted for examination of the witnesses. Already P.W.1 was examined and at this stage, this Court cannot invoke inherent power under Section 482 of Cr.P.C.

8. At this juncture, the learned counsel appearing for the petitioner prayed before this Court to dispense with personal appearance of the petitioner before the trial Court. As far as dispensing personal appearance of the petitioner is concerned, the petitioner can very well approach the trial Court. If any such application filed by the petitioner, the trial Court has to consider the same in accordance with law.

9. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

21.09.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn



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To

1.The Judicial Magistrate, Bhoothapandi, Kanyakumari District.

2.The Section Officer,

E.R. Section,

Madurai Bench of Madras High Court, Madurai.



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P.DHANABAL, J.

Mrn

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