



Crl.O.P.No.5411 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.5411 of 2022

and

Crl.M.P.No.2944 of 2022

S.Balamurali

... Petitioner

Versus

1. State rep. by
Inspector of Police,
R.S.Puram Police Station,
Coimbatore Dt.
(Crime No.534 of 2021)

2. R.Veerassamy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with Spl. S.C.No. 5 of 2022 on the file of the learned Principal Sessions Judge, Coimbatore in Crime No.534 of 2021 on the file of R.S.Puram



Crl.O.P.No.5411 of 2022

WEB COPY

Police Station, Coimbatore and quash the charge sheet filed in Spl.S.C.No.5 of 2022 on the file of Principal Sessions Judge, Coimbatore in Crime No.534 of 2021 on the file of R.S.Puram Police Station, Coimbatore against the petitioner/accused as illegal, malafide and void under law.

For Petitioner : Mr.P.Veeraraghavan

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

R2- No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in Spl.S.C. No. 5 of 2022 on the file of learned Principal Sessions Judge, Coimbatore.

2. Heard both sides.

3. The petitioner is arrayed as accused in the F.I.R. in Crime



Crl.O.P.No.5411 of 2022

WEB COPY

No.534 of 2021 registered for the offence under Sec.294(b) of I.P.C. and Sec.3(1)(r) of SC/ST (POA) Act. Subsequently, the charge sheet has been filed and the same was taken on file in Spl.S.C.No.5 of 2022 on the file of Principal Sessions Judge, Coimbatore and the same is pending. Now, the petitioner had filed this petition praying to quash the said charge sheet stating that he has been falsely implicated in this case by the 1st respondent police as per the complaint given by the 2nd respondent/defacto complainant. Notice was issued to the respondents. The learned Government Advocate (Crl. Side) appeared on behalf of 1st respondent. Despite service of notice as well as name printed in the cause list, there is no representation on the side of 2nd respondent/defacto complainant.

4. The learned counsel for petitioner would submit that the petitioner and the 2nd respondent/defacto complainant are working in Tamil Nadu Agricultural University, Coimbatore and they are having cordial relationship and having friendship with each other. While so, the 2nd respondent/defacto complainant borrowed loan from one Appadurai



CrI.O.P.No.5411 of 2022

WEB COPY

(L.W.9) and the said loan amount of Rs.1,50,000/- was lent by wife of the said Appadurai, L.W.9. However, in respect of payment of interest and repayment of loan, there was a dispute between Appadurai and the 2nd respondent/defacto complainant, besides, Appadurai also known to him. So, when the loan amount was demanded by the petitioner on behalf of his friend, there was a misunderstanding between them. Aggrieved that, he gave a false complaint. But, at any point of time, the petitioner is not intended to humiliate him by mentioning his caste name in the public place nor any such wordy quarrel arose between them. Hence, he prayed to quash the proceedings as there is no ingredients to attract Sec.3(1)(r) of SC/ST (POA) Act. He would also pointed out that as per the complaint, the alleged occurrence was happened on 12.09.2021 and subsequently, another occurrence was happened on 18.10.2021 when the petitioner/accused along with Appadurai came in front of the house of 2nd respondent/defacto complainant, there was exchange of terms in respect of repayment of loan. At that time, as per the contention of 2nd respondent/defacto complainant, the petitioner/accused uttered the words “கேனக்கூதி தேவிடியா மவனே” “சக்கிலி தாயோழி” in the presence of witness with



Crl.O.P.No.5411 of 2022

WEB COPY

an intention to humiliate him. But the complaint was lodged on 19.10.2021 nearly about one month later from the date of alleged occurrence. However, in his confession statement, he stated that on 18.10.2021 again the petitioner/accused abused him in the presence of public at Agricultural University ground by humiliating him mentioning his caste with filthy language. As rightly pointed out by petitioner's counsel that even as per the subsequent incidents said to be happened on 18.10.2021, there is no mentioning of caste name by the petitioner and witness to that effect also given statement that he uttered only in filthy language, but not uttered any caste name by the petitioner with an intention to abuse the accused on that day. So, prima facie, there is no evidence to attract that petitioner/accused abused the 2nd respondent/defacto complainant in the presence of public with an intention to abuse him by mentioning his caste name. Hence, he prayed to quash the proceedings initiated against the petitioner. In support of his contentions, the learned counsel relied on the ratio laid down in ***Crl.Appeal No.607 of 2020*** in the case of ***Hitesh Verma vs. The State of Uttarakhand and another***, wherein the Apex Court in paras 13 and 18



held as follows :-
WEB COPY

“13. The offence under Sec.3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance



WEB COPY



CrI.O.P.No.5411 of 2022

with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste.”.....

“18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Sec.3(1)(r) of the Act is not made out.”



WEB COPY

5. Records perused. On perusal of the authority referred by the petitioner's counsel in ***Crl.Appeal No.607 of 2020*** in the case of ***Hitesh Verma vs. The State of Uttarakhand and another***, it would clearly indicates that if there is no ingredients to show that with an intention to humiliate a member of Scheduled Caste or Scheduled Tribe by the petitioner/accused and if at all, any such person happens to be a Scheduled Caste, offence under the SC/ST Act is not made out. Hence, this Court is inclined to quash the proceedings in view of the charges levelled against the petitioner under SC/ST (POA) Act is not made out. Furthermore, on perusal of entire facts as well as final report of the prosecution, it reveals that witnesses 2 and 3 are wife and son of 2nd respondent and witnesses 4 to 6 are residing in the Agricultural University Campus and there is no independent witnesses. If it is happened in public view, there must be an independent witness from public. But, no such witness examined on the side of prosecution. Son and Wife of 2nd respondent/defacto complainant have stated that he



CrI.O.P.No.5411 of 2022

borrowed a loan from L.W.9, out of which there was a misunderstanding in respect of payment of loan amount, which clearly indicates that due to the borrowal of loan and in view of money transaction, some dispute arose between the parties. If there is any dispute with regard to loan transaction on the defaulted period, they can very well invoke the jurisdiction of civil court and same cannot be given a criminal colour. Hence, the proceedings initiated against the petitioner is vexatious and liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the charge sheet initiated against the petitioner in Spl.S.C.No.5 of 2022 on the file of Principal Sessions Judge, Coimbatore is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

01.02.2024

Index: Yes/No
Internet: Yes/No
rpp

To

1. Inspector of Police,
R.S.Puram Police Station, Coimbatore Dt.



CrI.O.P.No.5411 of 2022

2. The Public Prosecutor, High Court, Madras.

T.V.THAMILSELVI, J.

rpp

CRL.O.P.No.5411 of 2022



WEB COPY



CrI.O.P.No.5411 of 2022

01.02.2024