



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM:

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

CRL.OP No. 24116 of 2022
and CMP No. 15289 & 15290 of 2022

1 R.NANDAKUMAR
2 T.PUSHPAKARAN
3 P.K.PARTHIBAN
4 KARTHIK

5 KARTHIK
6 RAVIVARMAN

...Petitioner

Vs.

1 N.DHASARATHAN

...Respondent

PRAYER : This petition has been filed under Section 482 of Cr.P.C , to
Call for the records relating to the impugned proceedings in CC.28/2022 on
the file of the Judicial Magistrate Court Madurantagam quash the same.

For Petitioner : Mr.K.Kovi Ganesan

For Respondent : Mr.L.Uthayakumar

ORDER



The petitioners herein filed this petition to Call for the records relating to the impugned proceedings in CC.28/2022 on the file of the Judicial Magistrate Court Madurantagam quash the same.

2. Heard both sides.

3. The petitioners 1 to 3 were working as Sub-Inspectors of Police, 4th petitioner as constable, 5th petitioner as driver/constable and 6th petitioner as writer at Acharapakkam Police Station. The case against the petitioners is that the respondent herein filed a complaint before the Judicial Magistrate - II, Madurantagam, under Section 190(1)(a) of Cr.P.C and 200 Cr.P.C for the offences punishable under Section 120(B), 294(b), 147, 148, 447, 323, 506(i), 354, 506, 341 r/w 3 and 4 of Women Harassment Act. According to the respondent/defacto complainant, he was an advocate by profession. On 16.10.2021, an FIR was registered in crime No. 467 of 2021 for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii) against Subramani and others. In respect of the said case, the respondent appeared as Advocate for the above accused persons and also for obtaining bail. While being so, On 26.10.2021, at about 3 a.m., the petitioners suddenly entered into the respondent's house and the same was questioned by his mother they abused his mother and forcefully taken the respondent to police station



through Bolero Van and also he was not permitted to give information to his relatives and it was not heard by the petitioners/accused and he was detained under illegal custody till 4.45 a.m., and thereafter he was released on 5.30 a.m.. Further, the petitioners safeguarded the absconded accused persons namely karunakaran others in crime No. 466 of 2021 and the same was objected by the respondent/defacto complainant. Hence, with an ulterior motive the petitioners illegally taken the respondent to police station. Therefore, the respondent lodged the present complaint before the said Court and same was taken on filed in C.C No. 28 of 2022.

4. Challenging the said proceedings, the petitioners filed the present petition.

5. The learned counsel for the petitioner submits that on the alleged date of occurrence, the petitioners were searched the accused kumarasn in respect of crime No. 467 of 2021 and one villager identified the respondent's house as that of the accused and bonafidely believing tapped the door of the respondent and the respondent herein cladded with lungi came out. But the accused was not there and he was asked to accompany to the police station and obliged and came and sat in police vehicle without disclosing the identity. Thereafter, they came to know that he was advocate and



immediately permitted him to go to the house. But suppressing the above facts, the respondent lodged a false complaint against the petitioners as if he was harassed by the petitioners. Further, he stated that the petitioners are being public servants they discharged their duties but they were falsely implicated in this case and also prior sanction from the Government was not obtained as per Section 197 Cr.P.C. Hence, he prayed to quash the proceedings against the petitioners.

Section 197 Cr.P.C Read as follows:

197. Prosecution of Judges and public servants.

(1)When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-

6. On considering the entire facts of the case, it reveals that there was private complaint lodged against the petitioners/police officials by the respondent who is an advocate by profession. According to the defacto complainant he was taken by the petitioners and illegally detained him for one hour. According to the petitioners, they were searched the accused person in the respondent's house and also at that time the respondent was not disclosed that he was advocate and thereafter he came to know that he was advocate and immediately released him. Hence, while discharging their



duties said occurrence was taken place. According to the petitioners, even as per the complaint, he stated that he was taken to the police station with an ulterior motive. It clearly reveals that while discharging their duties they were implicated by the defacto complainant. If at all the defacto complainant want to prosecute them the prior sanction must have obtained from the Government but it was not obtained. **Furthermore, the private complaint is not been made out as per Section 197 Cr.P.C.** Hence, the proceedings against the petitioners in c.C No. 28 of 2022 is hereby quashed.

7. In the result, this petition is allowed. No Costs. Consequentially, connected miscellaneous petition is closed.

18.03.2024

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To
The Public Prosecutor,
High Court, Madras.

T.V.THAMILSELVI, J.



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