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Crl.O.P.No.3164 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.3164 of 2022
and
Crl.M.P.Nos.1420 & 1421 of 2022

1.Kumar
2.Muralidharan

... Petitioners

Vs.

1.State Rep. by
The Inspector of Police,
Dharapuram, Thiruppur.

2.Muthukumar

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records of the proceedings in S.C.No.14 of 2021 on the file of the Principal District Sessions Court, Thiruppur and quash the same.



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For Petitioners : Mr.R.Subramaniyan
For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)
For R2 : No appearance

ORDER

This petition has been filed to quash the S.C.No.14 of 2021 on the file of the Principal District Sessions Court, Thiruppur, in which cognizance was taken for the offence punishable under Sections 294(b), 323, 324, 3(1)(r), 3(1)(s) and 34 of IPC, 1860.

2. 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.

3. The learned counsel for the petitioners submitted that the nature of the offence has not been committed an account of the victim cast or where the continuation of the proceedings would be constituted an abuse of process of law. The main issue emerging from the pre-existing of the IPC offences



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between the parties. The motive for crime is not cattiest attack and the provision of the SC/ST Act against the petitioner and cannot be invoked the primary requirement for invoking any of the offences or enumerated are Section 3 of the SC/ST Act. There is no offence made out from the content of the complaint and as well as the investigating the material filed by the final report of the respondent. The Supreme Court has considered in Rama Water Vs. State of Madhya Pradesh case the offence under the IPC against the defacto complainant for such an act of the respondent is maintainable the further false allegation of case against the SC/ST Act is not maintainable it is amount to abuse of process of Court. The final report and FIR is only to threaten the petitioners and do not constitute the cognizable offence, and no fruitful purpose will be served by continuation of the proceedings against the petitioners which or otherwise abuse of process of law. There is no any material placed on record by the prosecution for the allegation of the defacto complainant while investigating the offence by the respondent police and there is no piece of evidence for incriminating the material recovered or submitted by the side of the complainant for such alleged transaction and liable to be set aside. Already the petitioner has lodged a complaint against the 2nd respondent before the 1st respondent in Crime No.1049 of 2021, for



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the offence under Sections 294(b), 341, 323, 324, 427, 506(ii) & 34 of IPC.

The offence alleged against the petitioners as it is vexatious one, as a counter blast to the complaint filed by the petitioners, the 2nd respondent has lodged the complaint against them. Hence, he prays to quash the proceedings against the petitioners.

4. The brief facts of the case in Crime No.1049 of 2021 is as follows:

On 19.07.2021, the respondent along with 7 other persons have consumed the liquor used the un-parliamentary word and obscene dance in front of the petitioners house against the petitioners sister's daughter who is studying 11th standard and other Women and Children who ever going on the road, the petitioner has informed to the respondent police for to take the action. The respondent police have registered the FIR in Crime No.1049 of 2021 against one Gunasekar, Prasanna, Dhanush, Murugan, Gopal, Boobalan, Muthukumar under Sections 147, 148, 294(b), 323, 324, 506(ii) of IPC.



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5. After lodging of the complaint by the petitioners the 2nd respondent along with other village people, compelled the police to register the present case in Crime No.1050 of 2021 against the petitioners. In fact, such an occurrence happened, to harass these petitioners, the present complaint was lodged by the 2nd respondent. Furthermore, he submitted that they never abused the 2nd respondent by mentioning their caste name. In fact, the respondent, along with other persons, only harassed the petitioners by consuming alcohol. When it was objected by them, they used un-parliamentary words against the Women and Children, who were passing on the road.

6. On a perusal of the records, it reveals that the alleged witnesses relied upon by the prosecution also reveals that the 4th witnesses is the wife of the defacto complainant and the other two witnesses also belong to the same area and are closely associated with A1. Therefore, there is no independent witness from the public to support the case of the 2nd respondent. According to the 2nd respondent, about the alleged occurrence stated that he was abused by the accused concerned, but the final report has



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not been disclosed at the time of witnesses L.W.2, L.W.3 and L.W.4 were present in that case. So there is no prima facie material to establish that the petitioners abused the 2nd respondent by mentioning his caste name in a public place.

7. Furthermore, in the earlier complaint given by the petitioner, it clearly reveals that as a counter blast to their complaint, the present complaint was lodged. So it is an abusing process of law on the ground the complaint given by the 2nd respondent is liable to be quashed. Furthermore, there is no material evidence against the provisions of law against the petitioners.

8. The petitioners are also inclined to withdraw the complaint given by them against the 2nd respondent in Crime No.1049 of 2021. To that effect, they filed an affidavit before this Court. On considering the facts and circumstances and also considering the affidavit filed by the petitioners, this Court is inclined to quash the proceedings against the petitioners in S.C.No.14 of 2021 on the file of the Principal District Sessions Court, Thiruppur, and also a counter-complainant in Crime No.1049 of 2021,



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which is taken on the file of the Judicial Magistrate Court, Dharapuram in C.C.No.284 of 2022, are ordered to be quashed.

9. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/ No

Neutral Citation: Yes/No

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To

1.The Inspector of Police,
Dharapuram, Thiruppur.

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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