



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

CORAM:

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

CRL.OP No. 27305 of 2022

& CrL.MP. No. 16793 & 16794 of 2022

J.M.Aneez

...Petitioner

Vs.

1. The Inspector of Police,
T-12, Selaiyur Police Station,
Selaiyur, Chennai.

2.Duraikannan ...Respondent

PRAYER : This petition has been filed under Section 482 of Cr.P.C, to call
for the records in C.C.No.328 of 2018, on the file of the learned judicial
Magistrate No.1, Tambaram and quash the entire proceedings.

For Petitioner : Mr.R.Prabhavathy

For Respondent : Mr.S.Vinoth Kumar

Government Advocate (Crl. side)

**ORDER**

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The petitioners herein filed this petition to call for the records in C.C.No.328 of 2018, on the file of the learned judicial Magistrate No.1, Tambaram and quash the entire proceedings.

2. The case of the prosecution is that on 15.03.2018, the defacto complainant alleged to have involved in cleaning bushes in his vacant land, cleaning garbage by setting fire. At that time, the accused said to have prevented the defacto complainant/second respondent herein and objected the same, abused him with filthy language and attacked with stone. Based on the defacto complainant's complaint the respondent police a FIR in crime No. 280 of 2018 and after investigation filed a final report under Section 448, 294(b), 324, 506(ii) IPC and the same was taken on file in C.C No. 328 of 2018 by the Judicial Magistrate No.I, Tambaram. Hence, the petitioner filed this petition to quash the C.C No. 328 of 2018.

3. The learned counsel for the petitioner submits that both the petitioner and the defacto complainant are neighbour and there was a dispute between them in respect of vacant land, due to which, there is wordy quarrel between them on 15.03.2018 but in order to harass the petitioner the defacto complainant gave a false complaint stating that the petitioner abused



him with filthy language and attacked him. Further, the defacto complainant made a complaint dated 16.03.2018 before the first respondent police alleging that the petitioner along with other four persons entered into his land, attacked him and threatened him with dire consequences. However, on 16.03.2018, the defacto complainant made further statement that the due to smoke and eye irritation he wrongly made statement that the petitioner came with four other persons and the same is false. Hence, he prays to allow this petition.

4. On perusal of the records, it reveals that if at all occurrence happened at public place there must be independent witness on the the side of the prosecution but witness which was examined on the side of the prosecution was the son of the defacto complainant. In fact on the alleged date of occurrence, the defacto complainant attempted to clean the bushes in the vacant land when there was wordy quarrel between the petitioner and the defacto complainant who are neighbours. Therefore, the fact reveals that there was a land dispute between the parties which is civil in nature and same cannot be given criminal colour. Further, there is no independent witness on the side of the prosecution so show that on the date of alleged occurrence the petitioner along with others attacked and also abused the



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defacto complainant with unparliamentary words and also the witness of the alleged occurrence is the defacto complainant's son who is interested witness except that there is no independent witness on the side of the prosecution. Hence, the proceedings in C.C No. 328 of 2018 is hereby quashed.

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

01.03.2024

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To
1.The Public Prosecutor,
High Court, Madras.
2. The Judicial Magistrate No.1, Tambaram

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