



Crl.O.P.No.23676 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.23676 of 2024

and

Crl.M.P.No.13397 of 2024

1.K.M.S.Sivakumar
2.M.Ragasarathy
3.K.Arun

... Petitioners

Vs.

1.The State Rep.by
The Inspector of Police,
Padhirivedu Police Station,
Thiruvallur District
Crime No.417/2021

2.P.Sridhar

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to call for the records and to quash the charge sheet in C.C.No.4 of 2024 on the file of the District Munsif cum Judicial Magistrate, Gummidipoondi.

For Petitioners : Mr.T.R.Ravi

For R1 : Mr.S.Udayakumar
Government Advocate (Crl.Side)

For R2 : Mr.S.Sasikumar

ORDER



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WEB COPY This Criminal Original Petition is filed to quash the C.C.No.4 of 2024 on the file of the District Munsif cum Judicial Magistrate, Gummidipoondi, for offence under Sections 323, 506(i) IPC r/w 34 IPC.

2. The case of the petitioners is that the 1st petitioner being the elected Union Councilor of Eguvarpalayam Panchayat, he has been prevented from participating in the Grama Sabha meeting and been insulted by using caste name of the defacto complainant and others. When that was objected and brought to the notice of the police, a false complaint lodged against him as if he and others disturbed the Grama Sabha meeting held on 02.10.2021 and the case has been registered for the above said offences.

3. The learned counsel appearing for the complainant submits that on the day of occurrence, it was the 1st petitioner who along with his wife and others made ruckus and disturbed the peaceful conduct of Grama Sabha meeting. However, suppressing the fact, he has given a complaint before the respondent police making false allegations as if he has been insulted by using caste name and the case in Crime No.417 of



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2021 was registered by the respondent police, investigated by the Deputy Superintendent of Police, Gummidipoondi and final report filed in S.C.No.158 of 2023.

4. The learned counsel appearing for the respondent further submits that the petitioner has chronic habit of false complaint taking advantage of his caste. Earlier complaint with similar allegations was enquired and closed as Mistake of Facts.

5. The learned Government Advocate (CrI.Side) appearing for the respondent police submits that regarding the incident which took place on 02.10.2021 during Gramasabha meeting, the police has registered complaint in Crime No.417 of 2021 on the complaint given by the 1st petitioner and Crime No.418 of 2021 on the complaint given by Sridhar. Since the 1st petitioner belongs to Schedule Caste, his complaint was investigated by Deputy Superintendent of Police, Gummidipoondi for offence under Section SC/ST along with IPC offences. Whereas, the complaint given by Sridhar was investigated by the Inspector of Police, Padhirivedu Police Station and in both the cases, final report filed before the appropriate Court.



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WEB COPY 6.

This Court finds that there is a grave procedural violation in the investigation of the complaint and contrary to the Police Standing Order 566, the complaint and complaint in counter arising out of same incident been investigated by two different Investigating Officers. Without reference to the other complaint, final report filed without ascertaining who is the aggressor or both are aggressors to each other. In the said circumstances, the case and case in counter are likely to be tried by two different Judicial Officers of different rank. This will lead to great miscarriage of justice and also contrary to the guidelines laid down by this Hon'ble Court in *Balaji Vs.State of Tamil Nadu* as formulated in Paragraph 58 and 59 of the said judgment. It is appropriate to withdraw the final report filed in both the cases arising out of Crime No.417 and 418 of 2021 and the cases are to be entrusted to any police officer not below the rank of Deputy Superintendent of Police and same has to be investigated. Final report should be filed after ascertaining who is the aggressor and it must be in consonance with PSO 566 and the guidelines formulated by the Full Bench of this Court cited supra. If both the parties are found to be the aggressor, final report in both the cases should reflect the reasoning for the trial Court to appreciate the evidence available and



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to arrive at right decision. The final report should be filed before the appropriate Court and to be tried by the same Court. If the Investigating Officer is of the opinion that final reports should be filed in one case and in other case action to be dropped. In the final report, he should assign the reason why the action dropped in other case.

7. With the above observation, this Criminal Original Petition is disposed of. As a result, to implement the above direction, the final reports in both the cases stands quashed. The Superintendent of Police, Thiruvallur shall appoint any Investigating Officer not below the rank of Deputy Superintendent of Police to investigate both the cases and file final report preferably within four months from the date of receipt of copy of this order as per the direction in paragraph 6 supra. Consequently, the connected Criminal Miscellaneous Petition is closed.

22.10.2024

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Dr.G.JAYACHANDRAN,J.

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To



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1. The District Munsif cum Judicial Magistrate, Gummidipoondi.

2. The Inspector of Police,
Padhirivedu Police Station,
Thiruvallur District

3. The Public Prosecutor,
High Court of Madras,
Chennai.

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