



CrI.R.C.No.144 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.02.2025  
PRONOUNCED ON : 26.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.144 of 2022

Gunasekar

... Petitioner

Vs.

1.Amithalingam  
Sub Inspector of Police,  
Attur Town Police Station,  
Attur, Salem District.

2.Iyyappan,  
Sub Inspector of Police,  
Attur Rural Police Station,  
Attur, Salem District.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order of the learned Judicial Magistrate No.1, Attur in CrI.M.P.No.1100 of 2020 dated 01.02.2021.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.S.Chendur Eashwaran  
for Mr.E.C.Ramesh



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## ORDER

The petitioner filed a private complaint under Section 200 Cr.P.C. against the respondents for the offence under Sections 166, 167, 294(b), 342 and 466 of IPC in CrI.M.P.No.1100 of 2020. The Trial Court by order dated 01.02.2021 dismissed the said petition. Against which, the present petition is filed.

2.The petitioner is an agriculturist and former Ward Member and presently his wife is a Ward Member. The petitioner used to represent for the welfare of the Villagers. During March 2020, there was a lock down and total ban for movement of people due to Corona Pandemic, at that time, on 23.04.2020 the Police received information about blending and sale of illicit arrack. The respondents along with one Mr.Senthil Rajamohan, Inspector of Police conducted raid in the Village, at that time, the respondents arrested one Nijandhan from the adjoining field, which was informed to the petitioner by the said Nijandhan's father and the petitioner questioned the Police and the petitioner was abused using filthy language



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and the petitioner protested and informed that he is going to file defamation case and also make representation to the Human Rights Commission about the act of the respondents. On 27.04.2020 at about 7.00 a.m., the Rural Police, Attur took the petitioner to the Police Station for enquiry, at the same time, ten rowdy elements entered the petitioner's house, damaged the door, window and other properties and further, threatened the petitioner's wife, how dare the petitioner can question the Police and thereafter, left the petitioner's house. The petitioner lodged a complaint but no acknowledgement given. The petitioner lodged a complaint to the Deputy Superintendent of Police followed by a complaint through online to the Director General of Police on 29.04.2020 and the petitioner received acknowledgement through Whatsapp. On 29.04.2020, the petitioner's wife was enquired and based on her statement, a case in Crime No.184 of 2020 against one Chinnavan and ten others registered. The petitioner sent representation to the District Collector, Chief Secretary, Chief Minister's Cell and various authorities, further the incident was also reported in the daily newspaper.



**WEB COPY** 3. On 14.05.2020 one Gopi, brother of Chinnavan @ Tamilalagan

lodged a complaint against the petitioner and a case in Crime No.210 of 2020 registered for the offence under Sections 294(b), 353 and 506(i) IPC.

The petitioner was arrested and remanded to judicial custody. When the petitioner was in prison, a complaint was received from one Krishnan and a case in Crime No.218 of 2020 registered against the petitioner for offence under Sections 294(b), 323, 447 and 506(ii) IPC. Again on 21.05.2020 based on the complaint given by one Anbalagan, Forest Range Officer, Attur, a case in Crime No.221 of 2020 registered against the petitioner for the offence under Sections 143, 294(b), 323, 427, 447, 353 and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act [TNPPDL Act]. The respondents and the Forest Rang Officer abusing their official power, registered cases against the petitioner and he was in confinement for more than 29 days. Thereafter, the petitioner caused a RTI application to the Forest Department seeking the nature of the complaint in Crime No.221 of 2020, the petitioner received a reply informing that no such complaint was given by the Forest Department which would clearly



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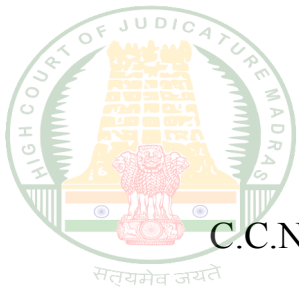
show that the respondents fabricated a false complaint against the petitioner and he was arrested. Hence, the petitioner filed a private complaint against the respondents for the offence under Sections 166, 167, 294(b), 342 and 466 of IPC, the petitioner sworn statement recorded and Nijandhan, the neighbour examined as witness No.2 and one Prabhu as witness No.3. The Trial Court recorded the statement of witnesses and held that the case in Crime No.210 of 2020, Crime No.218 of 2020 and Crime No.221 of 2020 are all in the stage of investigation and only after conclusion of investigation, it can be decided whether a false case has been registered and hence, dismissed the complaint of the petitioner under Section 203 Cr.P.C. Against which, the present revision.

4.The contention of the learned counsel for the petitioner is that the respondents herein are the Sub-Inspector of Police attached to the Attur Town Police Station and Attur Rural Police Station, who are collecting money from the illicit arrack vendors and dealers and encouraging antisocial elements. The petitioner an Ex-Panchayat Ward Member and his wife the present Ward Member were raising objections against the Police Personnel



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and others for their high handedness and illegal activities. The petitioner's neighbour Nijandhan, who is a Graduate in Agriculture working in Coimbatore has come to his native due to corona lock down, took the goats for grazing along with his friend Prabhu to the nearby hillock, at that time, they were questioned and abused by the respondents. The said Nijandhan was having a cash of Rs.24,000/- and the respondents claimed that he was carrying money to buy illicit arrack. Thereafter, both Nijandhan and his friend Prabhu were taken to the Police Station which was informed to the petitioner, who questioned the arbitrary act of the respondents. The Police Personnels were not happy questioning them and hence, foisted a case against the petitioner as though he along with others entered into the Forest area and caused damages and a case in Crime No.221 of 2020 registered against the petitioner and others for offence under Sections 143, 294(b), 323, 427, 447, 353 and Section 3 of TNPPDL Act. He would submit that the petitioner through RTI found that no such complaint was given by the Forest Department and hence, a false case has been projected against the petitioner. He further submitted that in the case in Crime No.210 of 2020 which was registered against the petitioner, charge sheet filed in



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C.C.No.192 of 2021, this Court by order dated 09.02.2024 in

CrI.O.P.No.16595 of 2022 quashed the case in Crime No.210 of 2020.

Further, the petitioner's wife lodged a complaint in Crime No.184 of 2020 against Chinnavan, Sathish Kumar, Prabhakaran, Rajakalai, Maniarasan and Pandiyan, in which investigation completed, charge sheet filed listing 17 witnesses and the same is pending in C.C.No.162 of 2021 before the learned Judicial Magistrate, Attur. He further submitted that the finding given by the Trial Court that Crime No.218 of 2020 and Crime No.221 of 2020 are pending, hence the private complaint filed by the petitioner are motivated one and dismissed the petition under Section 203 Cr.P.C. is not proper. Hence, prayed for setting aside the impugned order.

5.The learned counsel for the respondents submitted that the petitioner's wife lodged a complaint before the second respondent Police stating that on 27.04.2020 at about 7.30 a.m., one Mr.Iyyappan, Sub-Inspector of Police and two other Police Personnels took her husband to the Police Station for enquiry and on the same day at about 8.15 a.m., ten rowdy elements came to her house, abused her and they also claimed that they are



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the henchmen of Sub-Inspector of Police Mr.Iyyappan and Mr.Amirthalingam and caused damages to the door, window, two wheeler and other household articles. Based on her complaint, a case in Crime No.184 of 2020 registered for the offence under Sections 147, 148, 506(i) IPC and Section 3 of TNPPDL Act. When the case was pending investigation, the petitioner's wife filed Crl.O.P.No.13331 of 2020 seeking transfer of investigation to CBCID, Salem District. This Court by order dated 01.10.2020 transferred the investigation to Deputy Superintendent of Police, Attur for further investigation and on receipt of the case, the Deputy Superintendent of Police to conduct investigation and to file final report within a period of twelve weeks. Now investigation completed, charge sheet filed against six persons for the offence under Sections 147, 294(b), 427 and 506(ii) IPC and the same was taken on file in C.C.No.162 of 2021. But the respondents are neither the Investigation Officers nor the witnesses in C.C.No.162 of 2021.

6.The learned counsel for the respondents further submitted that the petitioner to his credit has got criminal antecedents, the petitioner is



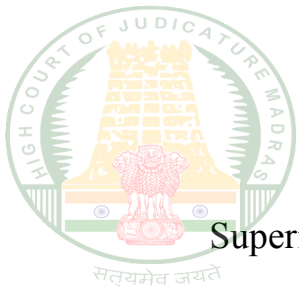
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involved in Crime No.218 of 2020 which is under investigation and Crime No.221 of 2020 which is a case registered on the complaint of one Mr.Anbalagan, Forest Range Officer, Attur Forest Range against the petitioner and 15 others. He would submit that the contention of the petitioner that the case was foisted against him for questioning the Police Personnels is not proper. Further, the RTI reply received by the petitioner is with regard to the query from the District Forest Office, but the case in Crime No.221 of 2020 was registered on the complaint by Forest Range Officer at Attur Forest Range and hence, reply has been wrongfully interpreted by the petitioner and submitted that there is no complaint lodged by Mr.Anbalagan, Forest Range Officer, Attur. He further submitted that the petitioner is also facing trial in Crime No.172 of 2022 and Crime No.27 of 2023. With regard to Crime No.210 of 2020, this Court by order dated 09.02.2024 in Crl.O.P.No.16595 of 2022 quashed the case. In Crime No.27 of 2023, investigation completed, charge sheet filed in Spl.S.C.No.118 of 2023 and the petitioner is facing trial for the offence under Section 364(A) IPC @ Section 302, 364(A) IPC r/w. Section 3(2)(v) of SC/ST Act. He would submit that none of the cases which are investigated against the



petitioner, the respondents are neither the Investigating Officers nor a witness. Hence, prayed for dismissal of the above petition.

7.This Court directed the learned Public Prosecutor to file a status report with regard to the petitioner and the respondents. The learned Public Prosecutor filed a status report stating that a case in Crime No.184 of 2020 was registered by one Mr.Thamaraiselvan, the then Inspector of Police and the same was later taken over by Murugesan. It is submitted that a case in Crime No.935 of 2005 was registered against the petitioner on 26.12.2005, one Mr.Panneerselvam, Inspector of Police investigated the case and the same ended in acquittal. The case in Crime No.210 of 2020 was investigated by Mr.Thamaraiselvan, Sub-Inspector of Police and the case was quashed by this Court in Crl.O.P.No.16595 of 2022 dated 09.02.2024. Crime No.218 of 2020 is under investigation by Mr.Thamaraiselvan, Crime No.221 of 2020 is under investigation by Mr.Murugesan, Crime No.172 of 2022 and Crime No.27 of 2023 investigated by Mr.Nagaraj. The respondents are neither Investigating Officers nor witnesses in any of the cases against the petitioner, the respondents are in the Special team of



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Superintendent of Police, who are taking vigorous steps in eradicating the illicit arrack by conducting raids, destroying fermented wash and illicit arrack which might have affected certain people and false complaint against the respondents are being generated.

8.Considering the submissions made and perusal of the materials placed on record and the impugned order, it is seen that the Trial Court considered the petitioner's contention along with the evidence produced. It is seen that Nijandhan, a neighbour was picked up by the respondents on 23.04.2020 which was questioned by the petitioner and thereafter, a case came to be foisted against the petitioner is not sustainable. The Statement of Nijandhan and his friend Prabhu confirm that they were playing Cricket and thereafter went to graze the goats in the hillock, at that time, the Police questioned them, took them to the Police Station, their bike and cash seized. The petitioner on coming to know about the same questioned the Police and later, the petitioner himself was arrested and detained in another case. The registration of a case against him will not give a right to the petitioner to file a private complaint against the respondents. Furthermore, the private



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complaint filed against the respondents is that a case in Crime No.221 of 2020 registered against him is a fabricated one. The defacto complainant therein is one Mr.Anbalagan, Forest Range Officer, Attur. The contention of the petitioner is that no complaint by District Forest Office as per the information received through RTI from the District Forest Office, Salem. Hence, a private complaint is filed to prosecute the respondents for the offence under Sections 166, 167, 294(b), 342 and 466 of IPC. In Crime No.221 of 2020, one Mr.Murugesan is the Investigating Officer who registered FIR and took up investigation. The respondents are no way connected with the registration of Crime No.221 of 2020. Added to it, the reply is not sent from the Forest Range Office, Attur under the Right to Information Act and the reply is received from the District Forest Office, Salem. The Forest cases are filed by the Range Officers and it is the Range Office which would maintain the register of the cases. In view of the above, the petitioner solely relying upon the RTI reply and filing a complaint is not proper. The Trial Court rightly found that investigation in Crime No.218 of 2020 and Crime No.221 of 2020 are pending and after completion of investigation only whether the cases are fabricated or not can be decided. It



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is one Mr.Thamaraiselvan and Mr.Murugesan, who are the Investigating Officers of the case. The respondents not initiated the investigation and there is no motivated investigation. Hence, this Court finds no reason to interfere with the well reasoned order passed by the Trial Court.

9.In the result, the Criminal Revision Petition stands dismissed.

26.02.2025

Index : Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
*cse*

To

The Judicial Magistrate No.1,  
Attur.



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M.NIRMAL KUMAR, J.

*cse*

Pre-delivery order made in

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