

(2009) 07 MAD CK 0413

In the Madras High Court

Case No : Criminal O.P. No. 26316 of 2005 and Criminal M.P. No's. 7730 and 7731 of 2005

Manohar and Rajarathinam

APPELLANT

Vs

S. Govindaraj

RESPONDENT

Date of Decision : 22-07-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 323, 324, 506
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)

Citation : (2009) 07 MAD CK 0413

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : M. Vijaya Kumaran, for the Appellant; P. Vijendran, for the Respondent

Final Decision : Dismissed

Judgement

C.S. Karnan, J.—The above petition has been filed by the petitioners to call for the records pertaining to PRC. No. 47 of 2005 on the file of learned Judicial Magistrate, Thiruthuraipoondi and quash the same.

2. The respondent/complainant has filed the case in PRC. No. 47 of 2005 before the learned Judicial Magistrate, Thiruthuraipoondi against the petitioners. The ingredients of the complaint is that on 23.06.2004, at about 11.00 a.m, two sub-inspectors and four constables, who are attached to the Thiruthuraipoondi police station entered into the complainant's house and assaulted him, forcibly brought him out and thereafter used filthy language against him and insulted his caste. Further, the respondent/complainant alleged that the petitioners/accused assaulted him on his head, and ear and left hand, with the result that the left hand of the respondent/complainant was fractured.

3. Further, the respondent/complainant has alleged that as he had constructed a house in temple land, the petitioners had threatened him to vacate the temple

land and used derogatory terms in referring to his caste, and addressed him as "pariah". Further the respondent/complainant alleged that he was admitted in Thanjavur Medical College Hospital as in-patient for two days; consequent to the assault on him by the petitioners.

4. Further, the respondent alleged that the petitioners/accused threatened him not to disclose the assault made on him. When the respondent was undergoing treatment as inpatient in the Government Hospital, Thanjavur, his house was set on fire; for which the fire department also had issued a certificate. The petitioner, Manohar had beaten the respondent, with stick, when the complainant tried to prevent the blow, his left hand was fractured.

5. Aggrieved by the said act of the petitioners, the respondent/complainant sent a legal notice to them. After receiving the legal notice, the petitioners have not replied to it so far. Consequent to this, the respondent had filed a case against the petitioners in PRC. No. 47 of 2005 on an alleged offence under Sections 147, 148, 323, 324, 506(ii) IPC and 3(1) of SC/ST Act. Supporting this complaint, the respondent/complainant filed four documents and mentioned three witnesses.

6. The learned Magistrate after considering the ingredients of the complaint, supporting documents and witnesses, has taken the case as PRC. No. 47 of 2005 and issued summons to the petitioners. Heard the arguments of the learned Counsel for the respondent.

7. The petitioners stated that the respondent had encroached the temple land and trespassed. Hence, the defacto complainant lodged a complaint with the police. On the said complaint, the police registered a case against the respondent herein. Further, the petitioners have contended that they proceeded in the case in accordance with law. They deny all the allegations made by the respondent herein. Per contra, the learned Counsel for the respondent submitted that the respondent's house was set on fire and the respondent was admitted in the hospital due to assault of the petitioners. Further, it is alleged that the petitioners had beaten the respondent in a public place and insulted him by using his caste name of "pariahs". The learned Counsel argued that the petitioners had misused police power on the respondent belonging to scheduled caste.

8. The citations cited by the petitioners, namely,

(1) Gauri Shankar Prasad Vs. State of Bihar and Another,

(2) 2003 1 LW (Cri.) 171, (K.P.S. Sathyamoorthy v. State of Tamil Nadu represented by Inspector of Police and Ors.)

are not applicable in the instant case.

9. Further, after considering the contentions of both the sides and facts of the case, the Court is of the view that the respondent issued legal notice to the petitioners for which there had been no reply from them. Thereafter the respondent had approached the Court for his remedy with the support of two

vitaly important documents, namely wound certificate and fire station certificates beside three eye witnesses. The learned Magistrate had also considered the case and has taken the case on his file after applying his judicial mind.

10. Further, the respondent has personal rights, vested in him by the Constitution of India as per Article 21. So, the respondent need not approach the concerned superior officer of the police department for his remedy. There is nothing wrong in the respondent approaching the court directly. Once, the judiciary entertains the case, there is no question of asking the respondent to approach the concerned police officer to lodge the complaint with him.

11. Hence, the court is of the opinion that this Court is not inclined to interfere with the said case in PRC. No. 47 of 2005 pending on the file of learned Judicial Magistrate, Thiruthuraipoondi.

12. Accordingly, the Criminal Original Petition has got to be dismissed and the same is dismissed. Consequently, connected Miscellaneous Petitions are closed.