

T.Satish Kumar Vs. State

T.Satish Kumar Vs. State

SooperKanoon Citation : sooperkanoon.com/1168205

Court : Chennai

Decided On : Apr-21-2014

Judge : The Hon'Ble Ms. Justice K.B.K.Vasuki

Appellant : T.Satish Kumar

Respondent : State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated: 21.04.2014 Coram THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI CrI.R.C.Nos.29 and 45 of 2009 and M.P.No.1 of 2009 T.Satish Kumar .Petitioner in both the CrI.RCs versus 1.State rep.

by the Inspector of Police, R5 Virugambakkam Police Station, Chennai.1st Respondent in both the CrI.RCs 2.Vadivelu 3.Dhileep 4.Marimuthu .Respondents 2 to 4 in CrI.RC.29/2009 (R2 to R4 impleaded in CrI.RC.29/2009 as per the order of this Court dated 11.7.2011 in MP.1/2009) Prayer:- Criminal Revisions are filed under Section 397 r/w 401 Cr.P.C.against the orders dated 17.12.2008 made in CrI.MP.No.5054 of 2008 and dated 24.11.2008 made in CrI.MP.No.5055 of 2008 respectively by the IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.T.V.Balaji For Respondents : Mr.C.Iyyapparaj, GA(CrI.Side) (R1) Mr.A.Saravanan (R2 to R4) COMMON

ORDER

While CrI.RC.No.29/2009 is filed against the order made in protest petition in CrI.MP.No.5054/2008, CrI.RC.No.45/2009 is filed against the order made in CrI.MP.No.5055/2008, which was filed for staying the trial in CC.No.494/2008 arising out of Cr.No.1580/2007.

While the petitioner herein is the defacto complainant in Cr.No.1580/2007 on the file of the fiRs.respondent police, he is arrayed as accused in Cr.1579/2007 culminated as CC.No.494/2008.

2.Few facts, which are relevant for consideration herein, are as follows: On 12.9.2007 at about 6.45 pm, one Advocate by name G.Muthuram former Additional CCP, Chennai, who was residing in different portion of the address of the petitioner, died at the age of 49 yeaRs.His friends, relatives and brother members of the bar came to his house to pay him their last respects and the vehicle of the mourners were parked on the road side.

One Actor by name Vadivelu, who is the defacto complainant in Cr.No.1579/2007 and A1 in Cr.No.1580/2007, having his office nearby, came in his car and on seeing many vehicles parked near his office, enquired about the same.

He was informed about the death of advocate G.Muthuram and the parked vehicles belong to the mourneRs.Thereafter, there are two different theories regarding the following events i.e., one from the petitioner and another from the side of the actor Vadivelu.

3.The fact remains undisputed is that some incidents were taken place between 9.30 and 10.30 pm, which gave rise to two complaints (i)one by the petitioner herein against Vadivelu and others (ii)by one Marimuthu, who is the Personal Assistant of Actor Vadivelu against the petitioner and 30 otheRs.Both the complaints were received in CSR and thereafter registered as Cr.Nos.1579 and 1580/2007.

While Cr.No.1579 arose out of the complaint given by Marimuthu against the petitioner and 30 otheRs.Cr.No.1580/2007 arose out of the complaint given by the petitioner against Vadivelu and 20 otheRs.Both the complaints contain allegations

for act of assault and criminal intimidation by one group against the other group.

While the respondent Police after investigation, closed the FIR in Cr.No.1580 of 2007 as mistake of fact, but filed charge sheet in respect of Cr.No.1579/2007 and the same was taken up on file as CC.No.494 of 2008 by the concerned Magistrate Court at Saidapet, Chennai for the offences under sections 147, 148, 341, 324, 336, 427 and 506(ii) IPC.

4.While so, the petitioner herein filed Crl.O.P.No.24546/2008 for directing the respondent police to complete the investigation and file final report in Cr.No.1580/2007.

In the couRs.of hearing in the same, it was submitted that the investigation was completed and the case was closed as mistake of fact and the final report was filed before the concerned Judicial Magistrate after service of notice to the petitioner.

In view of the same, the Crl.OP was closed with liberty given to the petitioner herein to file protest petition and direction to the concerned Magistrate Court to consider the same in accordance with law.

Accordingly, the petitioner filed the protest petition in Crl.MP.No.5054/2008 to dismiss the final report filed in Cr.No.1580/2007 and to order further investigation to be held by the police officer not below the rank of the Inspector of Police and file fresh final report.

The only ground raised therein for rejecting the final report is that no proper investigation was conducted by the investigating officer and the FIR was closed on the same day.

5.In the mean while, the trial in CC.No.494/2008 is in progress and witnesses are in witness box and the petitioner has come forward with Crl.MP.No.5055/2008 to hold on the trial in CC.494/2008 till disposal of the FIR in Cr.No.1580/2007 etc.The trial court, after due contest, by orders dated 17.12.2008 and 24.11.2008, dismissed both the petitions on the ground that no material was available to make prime face case against the accused for the act alleged therein and the trial in

CC.494/2008 has reached the final stage and stay could not be granted at this stage.

Hence, these two criminal revisions came to be filed before this court.

6.Heard the rival submissions made on both sides and perused the records.

7.The fact that one incident took place and the same gave rise to two complaints (i) by Marimuthu, PA to actor Vadivelu against the petitioner and others and (ii)by the petitioner against actor Vadivelu and others in respect of the occurrence on 12.9.2007, is not seriously denied.

As the complaint given by Marimuthu culminated as CC.No.494/2008, the truthfulness or otherwise of the allegations raised therein are to be agitated on merits after full fledged trial and the same cannot be gone into herein.

8.As far as the allegations raised in the complaint in Cr.No.1580/2007 against Vadivelu and 20 others are concerned, the same are on the basis of the materials collected during the couRs.of investigation, found to be untrue and closed as mistake of fact.

When the correctness of the final outcome of the same is challenged by way of protest petition, the trial court by considering all the materials available before the same, arrived at the conclusion that no prima facie case was made out to issue summons to the accused and dismissed the protest petition.

The trial court arrived at such finding mainly by reason of the failure on the part of the defacto complainant to furnish in the complaint the particulars regarding the names of the accused and the place at which the accused allegedly committed the act of assault and the main parts of body, in which the accused allegedly caused injuries etc.which were furnished in the couRs.of statement before the Investigating officer.

Therefore, the trial court was of the view that there were inconsistencies, embellishments and improvements in the case put forth by the defacto complaint, which were not corroborated by other uninterested witnesses.

The trial court explained in detail in the order impugned herein the ground on which the court concerned accepted the outcome of the investigating officer's report.

It is nobody's case that the statement of independent witnesses is either not true or concocted to suit the case of the prosecution.

When the statement of the defacto complainant is shored up suspicion and when the case is not supported by independent witnesses, the trial court rightly arrived at the conclusion that no prima facie case was made out to issue summons to the accused and rightly declined to order further investigation and accepted the final report filed by the K.B.K.VASUKI, J.

rk investigating officer, as such, this court finds no error or infirmity in the order so passed by the trial Court and the same warrants no interference by this court.

9.Insofar as Crl.RC.No.45/2009 is concerned, the trial court considering the stage of the trial in CC.No.494/2008 and delay already caused, rightly declined to stay the trial in CC.494/2008 and such order also warrants no interference by this court.

10.In the result, both the criminal revisions are dismissed.

Consequently, connected Miscellaneous petition is closed.

rk 21.04.2014 Index:Yes/No Internet:Yes/No To 1.The IX Metropolitan Magistrate, Saidapet, Chennai.

2.The Inspector of Police, R5 Virugambakkam Police Station, Chennai.

3.The Public Prosecutor, High court, Madras-104.

Crl.R.C.Nos.29 and 45 of 2009

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com