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Crl.O.P(MD).No.10994 of 2021



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Order Reserved on: 19.09.2023

Order Delivered on: 10.10.2023

CORAM

**THE HONOURABLE Mr. JUSTICE P.DHANABAL**

**Crl.O.P.(MD).No.10994 of 2021**  
**and Crl.MP.(MD).Nos.5607 &5608 of 2021**

Thavakannan

...Petitioner

Vs

1.The Inspector of Police,  
A.Mukkulam Police Station,  
Virudhunagar District.

2.Manikandan-The Sub-Inspector of Police,  
A.Mukkulam Police Station,  
Virudhunagar District.

...Respondents

**PRAYER:** Criminal Original Petition has been filed under section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet in C.C.No.227 of 2021 on the file of the Judicial Magistrate, Aruppukottai and quash the same.

For Petitioner : Mr.R.Karunanithi

For R1 : Mr.M.Sakthikumar  
Government Advocate (Crl.Side)  
: Mr.M.Ajmal Khan  
Senior Counsel

For R2

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## **ORDER**

This Criminal Original Petition has been filed to call for the records relating to the charge sheet in C.C.No.227 of 2021 on the file of the Judicial Magistrate, Aruppukottai and quash the same.

2. According to the petitioner, he completed Diploma in Electornics and Electrical Engineering and has been waiting for employment. He also applied for Passport with the Passport Office and awaiting for verification by police. In the mean time, on 20.03.2020, he received a call from A.Mukkulam Police Station to attend the passport verification, on 21.03.2020 and on the said date, he accompanied with his relative one Sivasubramaniam S/o.Karuppusamy and went to A.Mukkulam Police Station at about 10.00 a.m.,. At that time, he was asked to wait for 30 minutes as concerned Sub-Inspector of police was not available. After arrival of Sub-Inspector, his verification process was completed and he along with his relative Sivasubramaniam, left from the Police Station and returned back to their home at about 2.00 p.m.,

(ii) While so, on the same day i.e., 21.03.2020, at about 4.00 p.m., one Ramprasad, a prominent member of the Society and Ex-President of the Co-operative Society had asked the petitioner to visit his farmhouse. When the petitioner visited the farm house, the said Ramprasad informed that while the



5th respondent had visited him in the farm house, it was alleged by him that his walkie-talkie was stolen by the petitioner. For that, the petitioner replied that he did not take the walkie-talkie.

(iii) Thereafter, the 2nd respondent forced the petitioner to come to A.Mukkulam Police Station. Accordingly, the petitioner reached A.Mukkulam Police Station, where, the 2nd respondent/Sub-Inspector of Police abused, manhandled and assaulted him in a black and blue manner.

(iv) At that time of beating, the 2nd respondent asked the petitioner to admit the stealing of walki-talkie, but the petitioner refused, thereby, the 2nd respondent again beaten the petitioner. Due to the assault made by the 2nd respondent, the petitioner sustained injuries and went to Virudhunagar Government Hospital and had taken first aid and then he was referred to Madurai, Rajaji Government Hospital for further treatment.

(v) In order to escape from the clutches of law, the 2nd respondent, after knowing that the petitioner was admitted in the hospital registered a case in Crime No.34 of 2020 dated 21.03.2020 for the offences under sections 294(b), 427 & 353 of IPC. Thereafter, the petitioner had given a complaint to the higher authorities regarding the torture made by the 2nd respondent but no action was taken and therefore, the petitioner filed a Writ Petition in W.P.No. 6540 of 2020 and the same is also pending. The registration of FIR and filing of charge sheet in C.C.No.227 of 2021 against the petitioner is an abuse of



process of law. Hence, he filed this petition to quash the above said CC proceedings.

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3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would contend that the petitioner had applied for Passport in the passport office, for that, the 2nd respondent asked the petitioner to attend verification. Accordingly, on 21.03.2020, he went to A.Mukkulam Police Station and after verification process, he returned back to his home. On the same day, at about 4.00 p.m., the police called the petitioner through one Ramprasad and then asked about the missing walkie-talkie, for that, the petitioner replied that he don't know anything about the walkie-talkie.

(ii) Thereafter, the 2nd respondent police compelled him to come to A.Mukkulam Police Station and the petitioner also went to A.Mukkulam Police Station, where, the 2nd respondent made allegations that the petitioner had stolen the walkie-talkie. Infact the walkie-talkie was misplaced by the 2nd respondent and thereafter, it was found in the room of the 2nd respondent. In the mean time, the 2nd respondent assaulted the petitioner in a black and blue manner to admit that he only had stolen the walkie-talkie.

(iii) Thereafter, the petitioner went to the Hospital and then, he came to know that a FIR has been registered as against him for the offences under



sections 294(b), 427 & 353 of IPC in Crime No. 34 of 2020. After knowing that the petitioner went to the hospital, the 2nd respondent registered a case, in order to escape from the clutches of law. Therefore the filing of FIR itself is an abuse of process of law.

(iv) Further, the same Sub-Inspector of police who was registered the case, has investigated the case and filed the final report as against the petitioner, as if, the petitioner in a drunken mood uttered abusive words towards the public and when the same was questioned by the 2nd respondent, he damaged the walkie-talkie. But the above said facts are not true and the 2nd respondent without conducting proper investigation, filed final report in CC.No.227 of 2021 before the trial Court against the petitioner and the same is pending. The above said pending proceedings are clear abuse of process of law. Therefore, the CC proceedings are liable to be quashed.

5. The learned Senior counsel appearing for the 2nd respondent would contend that the petitioner in a drunken mood uttered abusive words towards the public and also made a quarrel with the public. At that time, when the 2nd respondent asked about his activities, he damaged the walkie-talkie and thereby, FIR has been registered. After registration of FIR, the case was investigated and as per investigation, prima-facie materials were made available as against the petitioner and thereby, the respondent police filed



final report before the learned Magistrate. The learned Magistrate also taken cognizance for the offences under sections 294(b), 427 & 353 of IPC and now the trial commenced in which, except the I.O, all other witnesses were examined. Thus the case is posted for examination of I.O. At this stage, this Court need not quash the proceedings and the matter is pending before the trial Court. So, the trial Court can decide the case based on the available evidences. Therefore, at this stage, the petition is liable to be dismissed.

6. The learned counsel for the petitioner to support his contention relied the following judgments:

1.Grace Banu Vs. The Inspector of Police, Guindy held in Crl.O.P.No. 20795 of 2020 dated 01.03.2021.

2.State of Haryana and others Vs.Bhajanlal and others held in (1992) AIR 604, 1990 SCR Supl.(3) 259.

7. The learned Government Advocate (Criminal Side) appearing for the 1st respondent would contend that the petitioner in a drunken mood uttered abusive words towards the public. When the same was questioned by the 2nd respondent police, the petitioner prevented the public servant from discharging his official duties and also damaged the walkie-talkie and thereby, the FIR has been registered in Crime No.34 of 2020 for the offences



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under sections 294(b), 427 & 353 of IPC. Thereafter, the respondent police investigated the case and then, final report was filed by the 1st respondent police before the learned Magistrate. The learned Magistrate had taken cognizance for the offences under sections 294(b), 427 & 353 of IPC. Already the trial Court has examined the witnesses and the case is pending for examination of I.O. At this stage, this Court need not quash the proceedings and the petitioner has to face trial. Since the matter at this stage of final hearing, the petition may be dismissed.

8. Learned Senior counsel appearing for the 2nd respondent would contend that the petitioner on the date of occurrence in a drunken mood uttered filthy language towards the public and the same was questioned by the 2nd respondent. At that time, the petitioner without hearing the words of the respondent damaged the walkie-talkie and thereby, FIR has been registered and then filed final report. Thereafter, the trial Court proceeded the case further and now all the witnesses were examined, except the I.O., i.e., the 2nd respondent herein. Therefore, at this stage, the proceedings cannot be quashed. The trial Court can decide the case based on available evidences. Hence, this petition is liable to be dismissed.

9. This Court heard both sides and perused the materials available on



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10. On perusal of records, it is observed that the case has been registered as against the petitioner for the offences under sections 294(b), 427 & 353 of IPC . The 2nd respondent has not stated anything about the passport enquiry made by him with regard to the verification of passport. According to the petitioner, he appeared for passport enquiry, and then, he returned back to home. In the mean time, the 2nd respondent called him through one Ramprasad, and he went to his farmhouse, where the 2nd respondent asked about the walkie-talkie, for that, the petitioner replied that he don't know anything about the walkie-talkie. Thereafter, the 2nd respondent police had compelled the petitioner to come to A.Mukkulam Police Station, where, the petitioner was assaulted by the police. In the mean time, the walkie-talkie was traced out which was misplaced in the room of the 2nd respondent. Thereafter, the 2nd respondent registered a false case against the petitioner. The above allegations are made by the petitioner.

11. But the 2nd respondent's contention is that the petitioner in an drunken mood abused the public in a filthy language and the same was questioned by him. At that time, the petitioner damaged the walkie-talkie and thereby, the FIR has been registered for the offences under sections 294(b),



427 & 353 of IPC. The 2nd respondent has not stated anything about the passport verification to the petitioner. However, the 2nd respondent has denied his involvement in the occurrence and thereby, it needs elaborate trial. There are some allegations levelled against the petitioner and the same is pending before the trial Court. It is admitted by both parties that in the trial Court most of the witnesses were examined, except I.O, all other witnesses were examined. While so, at this stage, it is not appropriate to interfere with the trial proceedings. Apart from the allegations, there is no other grounds raised by the petitioner. The allegations raised by the petitioner require elaborate trial and thereby, at this stage, this Court cannot interfere with the trial proceedings. Therefore, the trial Court has to decide the case on merits and the petitioner can agitate all the grounds raised in this case as defence in the trial Court. Therefore, at this stage, this Court decline to quash the CC proceedings. Hence, this petition is dismissed.

12. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

.10.2023

Index : Yes/No  
Speaking order/non-speaking order



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To

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- 1.The Inspector of Police,  
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- 2.Manikandan-The Sub-Inspector of Police,  
A.Mukkulam Police Station,  
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**P.DHANABAL, J.,**

mpa

**Pre-Delivery order in**  
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**and Crl.MP.(MD).Nos.5607 &5608 of 2021**

**.10.2023**