

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Crl.R.C.No.133 of 2015

R.Govindasamy

... Petitioner/ Accused

vs.

State represented by
The Station House Officer,
Grand Bazaar Police Station,
Puducherry.

... Respondent/ Complainant

PRAYER: Criminal Revision Case filed under Sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 06.01.2014 passed by the learned Chief Judicial Magistrate, Puducherry, in Crl.M.P.No.3682 of 2013 in CC.No.246 of 2011.

For Petitioner : Mr.T.Dhanasekaran

For Respondent : Mr.Thangavel,
Government Pleader (Puducherry)

JUDGMENT

Learned counsel for the petitioner submitted that the order dated 06.01.2014 in Crl.MP.No.3682 of 2013 in CC.No.246 of 2001, passed by the learned Chief Judicial Magistrate, Puducherry, dismissing the petition, filed under Section 173(8) CrPC, for re-investigation/further investigation, is erroneous on the ground inter alia that no reasons have been assigned in the impugned order. Added further, he submitted that though sufficient reasons have been stated in Crl.MP.No.3682 of 2013, filed for re-investigation/further investigation, without adverting to the same in proper perspective, the Court below has simply dismissed the petition. It is also the contention that the case in C.C.No.246 of 2011 is only a counter blast to the complaint, lodged by the complainant as early as on 09.06.2002 and that the said fact has not been taken note of by the Court below.

2. Heard the learned counsel for the parties and perused the material available on record.

3. Material on record discloses that on 09.06.2010, about 20.00 hours, the petitioner's bike was stated to have been parked in front of Dawn Quality Cards shop. When he came out of the shop, the defacto complainant prevented the petitioner from taking his bike, which lead to lodging of a complaint with Grand Bazaar Police Station, Puducherry. The respondent police did not take any action. No case has been registered against one Dr.Sathyanarayanan and others. Subsequently, on 28.06.2010, Grand Bazaar Police called the petitioner to appear for an enquiry, on the complaint, stated to have been given by the said Dr.Sathyanarayanan. Thereafter, the petitioner approached the Police and submitted a complaint against the said Dr.Sathyanarayanan, for filing a counter complaint. According to the petitioner, on the directions of the Superintendent of Police (North), Grand Bazaar Police registered a case against Dr.Sathyanarayanan and filed charge sheet in STR No.146 of 2010.

4.It is the contention of the petitioner that Dr.Sathyanarayanan is a famous Doctor in Puducherry. To wreak revenge against the petitioner, a counter complaint seemed to have been prepared on 17.06.2010, alleging that the petitioner has committed offences under Sections 323, 324 IPC on 09.06.2010. On receipt of the same, a false case has been registered against the petitioner and statements have been recorded under Section 161 CrPC. According to the petitioner, the respondent police has prepared a false arrest memo, bail bond, arrest form, 161 statements, accident register from Government Hospital, Puducherry, false medical certificate from the Doctor, as if Dr.Sathyanarayanan sustained injuries. It is the further case of the petitioner that the Head Constable, Investigating Officer and Doctor in Government Hospital, conspired together along with Dr.Sathyanarayanan, defacto complainant and created false records with an intention to lodge a criminal prosecution. In the abovesaid circumstances, before the Court below, the petitioner has sought for re-investigation/further investigation by some other Investigating Officer.

5.Upon perusal of records and after hearing the learned counsel appearing for both the parties, vide order dated 06.01.2011, in CrI.MP.No.3682 of 2013 in CC.No.246 of 2011, the learned Chief Judicial Magistrate, Pondicherry, has dismissed the petition as hereunder:

"2.Though it is pleaded by the petitioner, nothing is before this Court that the police along with the defacto complainant and the doctor has conspired themselves and created a false case against the accused and furthermore the accused can be defended and prove the above fact and he got an opportunity in the trial and therefore, the re-investigation need not be ordered

in this case as alleged by the petitioner accused and therefore, this Court does not found any merit in this matter and therefore, further investigation/re-investigation in this case need not be done and as such this petition is dismissed."

6. Though Mr.T.Dhanasekaran, learned counsel for the petitioner contended that the Court below has not assigned any valid reason, for dismissing the petition and further submitted that the Court below has failed to consider that the present complaint is only a counter blast to the complaint lodged by the petitioner, as early as on 09.06.2002, this Court is not inclined to accept the said submission, for the reason that as rightly observed by the Court below, the accusation can be very well defended by the petitioner, before the trial Court.

7. Official records, including the Medical Certificate issued by the Doctor in Government Hospital, would be produced, at the time of trial, in the Lower Court. As rightly observed, under the Code of Criminal Procedure, the petitioner has all the opportunities to defend the charge. The prosecution has to prove the charge beyond all reasonable doubt, whether the documents have been created for the purpose of foisting a case, is matter that can be elicited only at the time of trial. It is too early to arrive at any such conclusion. The Court below has considered the case of the petitioner, and assigned valid reasons, for dismissing the petition, seeking for re-investigation/further investigation. There is no illegality in the impugned order, warranting interference. The Criminal Revision Case is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mps

To

1. The Chief Judicial Magistrate
Puducherry

2.The Station House Officer,
Grand Bazaar Police Station,
Puducherry.

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

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