

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.2880 of 2015
and M.P.Nos.1 and 2 of 2015

Dr.Anbumani Ramadoss .. Petitioner/Accused-I
vs.

1.State of Tamilnadu,
Rep by The Inspector of Police,
Ulundurpet Police Station,
Villupuram District.
(Crime No.366 of 2013)

2.E.Santhosh Kuma .. Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in P.R.C.No.15 of 2014 on the file of the learned Judicial Magistrate No.1, Ulunthurpet, Villupuram District in Crime No.366 of 2013 on the file of the first respondent and quash the same insofar the petitioner is concerned.

For Petitioner : Mr.Ashok Kumar, Senior Counsel
for Mr.K.Balu

For Respondent : Mr.Shanmugavelayutham,
Public Prosecutor
assisted by
Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

The petitioner in this petition is the first accused in P.R.C.No.15 of 2014 and charge sheet has been filed against the petitioner and others in Crime No.366 of 2013 on the file of the Ulunthurpet Police Station for the offences under Sections 147, 294 (b), 323, 447, 506(i) and 109 IPC and Section 3 of TNPPDL Act r/w Section 149 IPC.

2. Mr.Ashok Kumar, learned Senior Counsel appearing for the petitioner submitted that a reading of the F.I.R., and the statement of witnesses would make it clear that no allegation has been made against the petitioner for having committed the offences, but strangely in the charge sheet it was stated that the petitioner incited the other accused to commit such offences and therefore, in the absence of any such allegation in the statements recorded under Section 161 CrPC against the petitioner, the respondent police ought not to have implicated the petitioner as first accused in the aforesaid crime.

3. Mr.Shanmugavelayutham, learned Public Prosecutor submitted that the petitioner was present in the car and in his presence, the other accused committed the offence and therefore, the petitioner was implicated as first accused and being the leader of the party, without his instigation the other accused would not have committed such offences.

4. I am unable to accept the submission made by the learned Public Prosecutor. It is seen from the F.I.R given by one E.Santhosh Kumar that on 08.08.2013, on seeing the petitioner inside a car, he immediately pressed the button for the car to go and following the said car, a White Scorpio vehicle bearing Reg.No.TN20 CC 2074 came and few people got down from the car and three or four persons got down from a Sumo vehicle and they indulged in wordy altercation with the security staffs and the persons who got down from the Scorpio Car punched in his face with his hands and also damaged the computer and keyboard. The complainant also made allegations against other accused in the F.I.R.

5. During investigation, the respondent police examined the complainant E.Santhosh Kumar and two other witnesses, namely Sivakozhunthu and Karthikeyan, as eye witnesses to the occurrence and those persons did not give any statement against the petitioner. As a matter of fact in the statement given by the complainant E.Santhosh Kumar during investigation, he did not mention the name of the petitioner stating that the petitioner was in the car. Similarly, the witnesses Sivakozhunthu and Karthikeyan did not mention the presence of the petitioner in the car at the spot. Therefore, considering the statement given by the complainant E.Santhosh Kumar in the F.I.R and also the statement give by the two other witnesses during investigation, no case has been made out against the petitioner and the witnesses did not state that the petitioner was present at the place of occurrence and he incited the other accused to commit the offence. Hence, the implication of the petitioner as first accused in Crime No.366/2013 on the file of the first respondent police is baseless and is liable to be quashed.

6. Therefore, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.15/2014 on the file of the learned Judicial Magistrate No.1, Ulunthurpet, Villupuram District in Crime No.366/2013 on the file of the first respondent is quashed insofar as the petitioner alone. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To

- 1.The Judicial Magistrate No.I,
Ulunthurpet, Villupuram District.
 2. -do- Through The Chief Judicial Magistrate,
Villupuram.
 - 3.The Inspector of Police,
Ulundurpet Police Station,
Villupuram District.
 - 4.The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.K.Balu, Advocate sr.6850
+ 1 cc to Public Prosecutor, SR.6738

Cr1.O.P.No.2880 of 2015

SV(CO)
Eu 12.02.15

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