

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2015
DELIVERED ON : 27.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.6535 of 2015
and M.P.No.1 of 2015

1.V.Venkateswaran
2.V.Apparao
3.M.R.Santhanam
4.M.S.Manimaran ... Petitioners

vs.

1.The Inspector of Police
V-7, Nolambur Police Station
Chennai.

2.K.Subbaraj ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the FIR in Cr.No.2205 of 2014 on the file of the first respondent.

For Petitioners : Mr.E.J.Ayyappan

For Respondent : Mr.C.Emalias, APP, for R1
Mr.S.S.Kumar, for R2

सत्यमेव जयते
O R D E R

Heard the learned counsel appearing for the petitioners, learned counsel for the de facto complainant and the learned Additional Public Prosecutor appearing for the State.

2. The petitioners are seeking to quash the FIR in Cr.No.2205 of 2014 registered against them, on the complaint given by the de facto complainant for offences under Sections 420 and 120(b) IPC.

3. On a perusal of the records in this case it is seen that, K.Subburaj, filed CrI.O.P.No.23720 of 2014 under Section 482 Cr.P.C. for a direction to the respondent police, to register a case on the complaint dated 13.06.2014 given by him to the police. A copy of the complaint dated 13.06.2014 is enclosed in the typed set of papers. This Court by order dated 02.09.2014, directed the respondent police to hold enquiry on the complaint and take action in accordance with law.

4. Mr.E.J.Ayyappan, learned counsel for the petitioners/accused submitted that, the complaint dated 13.06.2014 which was directed to be enquired by this Court in Crl.O.P.No.23720 of 2014, is not the complaint that has formed the basis of the impugned FIR in Cr.No.2205 of 2014. Therefore, this Court called for the records in Crl.O.P.No.23720 of 2014 for inspection and compared the complaint dated 13.06.2014 produced in that case, with the FIR in Cr.No.2205 of 2014 and found that the allegations of Mr.E.J.Ayyappan, learned counsel for the petitioners is correct.

5. Mr.S.S.Kumar, learned counsel for the de facto complainant submitted that, he gave a representation to the Chief Minister's cell and to the police in the morning of 13.06.2014 and gave a complaint on the same day in the evening, he gave a complaint dated 13.06.2014 to the police and he sought directions for registering a case only in respect of the complaint that was given in the evening on 13.06.2014, but the police have on their own registered a case based on the representation given by him in the morning and therefore, the de facto complainant cannot be faulted.

6. I am unable to persuade myself to agree with this submission because, it is indeed strange for a person to give representation in the morning and give a complaint in the evening, and this argument does not cut any ice.

7. The learned counsel for the de facto complainant submitted that, it is only a curable irregularity and when the FIR discloses the commission of cognizable offences, other things do not matter. This submission is indeed very specious. When a person comes for a relief to the Court, he should come with clean hands. The de facto complainant has kept one complaint before this Court and has persuaded this Court to give an order and after getting the order, FIR is being registered on a different complaint. In the FIR in Cr.No.2205 of 2014 registered by the police it is clearly stated that, the FIR is registered on 05.11.2014 pursuant to the directions given by the Court in Crl.O.P.No.23720 of 2014.

8. Now coming to the allegations in the FIR, the de facto complainant has eulogised the activities of the Chief Minister of the State and has made sweeping allegations against the petitioners herein, as if they have misappropriated some temple funds. The FIR lacks in particulars. It is seen that a Civil Suit in C.S.No.336 of 2012 filed by one Ganesan against the petitioners/accused in respect of the temple dispute, is pending before this Court and in the said Suit, an interim order dated 27.07.2012 has been passed by this Court, wherein the following directions have been issued:

"80. It is made clear that the defendants 1 to 3 are at liberty to operate the banking accounts with the defendants 4 to 8 and they are directed to submit proper account before this Court till the disposal of the suit once in a month preferably on the first working day of every month."

9. From the above it is clear that the petitioners/accused are submitting the accounts every month to this Court in respect of the collections made in the temple. In view of this, the allegations that the petitioners/accused are misusing the temple funds, as alleged by the de facto complainant, is a clear abuse of process of Court.

In the result, this petition is allowed and the proceedings in Cr.No.2205 of 2014 on the file of the first respondent are quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police
V-7, Nolambur Police Station
Chennai.

2.The Public Prosecutor, High Court, Madras.

1 cc to Mr.E. Ayyappan, Advocate, Sr. 22999

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Cr1.O.P.No.6535 of 2015

PA (CO)
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