IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.KARUPPIAH

Crl.O.P.No.2535 of 2010

P.K.Atheeque Ahamed ... Petitioner/Accused

Vs

1. State rep. by its
The Inspector of Police
Ambur Town Police Station (L & O)
Ambur
Vellore District.

2. K.Rajesh Prabu ... De-facto Complainant/2nd Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the F.I.R in Crime No. 690 of 2009 on the file of the first respondent herein, so far as the petitioner is concerned.

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For Petitioner : Mr.T.Karunakaran

For 1st Respondent: Mr.D.Sivaramkumar
Government Advocate (Crl. Side)

O R D E R

This Petition has been filed to quash the FIR in Crime No. 690 of 2009 on the file of the first respondent.

2. Brief facts stated in the petition are that the petitioner had given a complaint on 12.05.2007 against M.Ramamurthy, V.Althaf and A.M.Babu and it was received as C.S.R.No. 156 of 2007 on 14.05.2009. Since the first respondent failed to register a case, the petitioner herein filed Crl.O.P.No. 3173 of 2007 before this Court and this Court passed an order as "the petitioner is at liberty to proceed against the proposed accused before appropriate forum".

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Subsequently, the petitioner filed C.M.P.No. 4008 of 2008 before the concerned Magistrate Court and the same was forwarded to the first respondent police. The petitioner has applied for certified copy of the petition and Court order dated 22.07.2008, but the same was returned with endorsement as the bundle has been sent to police station. When the petitioner approached the police officials, they informed to the petitioner to approach the concerned Court. The second application filed for copy application also returned on 04.09.2008. The petitioner approached several time but the first respondent has not given any reply whether the investigation has been started or not. Therefore, the petitioner made a complaint on 17.09.2009 to the Superintendent of Police, Vellore Circle stating that no action has been taken on his complaint. Later informed to the petitioner that the FIR has been registered and investigation is going on. Again the petitioner filed copy application on 07.10.2009 but when the case was called, the petitioner was not present. In the above said circumstances, the second respondent herein gave a false complaint against the petitioner before the first respondent and the same was registered as Crime No. 690 of 2009 under Sections 294(b) and 506(ii) of IPC. The petitioner was apprehending arrest at the hands of the first respondent police. Therefore, he moved anticipatory bail before this Court in Crl.O.P.No. 22123 of 2009 and this Court has granted anticipatory bail. According to the petitioner, the above said criminal proceeding against the petitioner is abuse of process of Court since the second respondent has made a false complaint unnecessarily to harass the petitioner. According to the petitioner, the second respondent being an Advocate insisted the first respondent to register his complaint. Therefore, the petitioner filed Crl.O.P.No. 27155 of 2009 to quash the FIR. But the above said criminal original petition was disposed of on the ground that the investigation was completed and the charge sheet has been filed on 11.11.2009 before the Judicial Magistrate, Ambur. Subsequent to the above said order, the petitioner filed copy application to get certified copy of charge sheet on 16.12.2009. But the above said copy application was returned as "the case is pending in FIR stage, charge sheet has not yet been filed, hence returned". The above said fact clearly revealed that the first respondent has given false information before this Court and therefore, prayed for to quash the criminal proceedings pending against the petitioner under Section 482 Cr.P.C.

3. The learned Government Advocate (Crl. Side) appearing for the first respondent filed a status report wherein it is stated that the second respondent herein, namely, Rajesh Prabhu lodged a complaint on 07.10.2009 before the first respondent and on that basis, the first respondent has registered a criminal case in Crime No. 690 of 2009 under Sections 294(b) and 506(i) of IPC on 08.10.2009. After completion of the investigation, then Sub Inspector of Police, namely, Mrs.Nirmala laid a charge sheet on 11.11.2009 against the petitioner before the concerned Magistrate

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Court and the same was taken on file as C.C.No. 144 of 2010 dated 17.09.2010. According to the learned Government Advocate, the above said case is pending for trial before the concerned Magistrate Court and the next hearing posted on 05.02.2015 for appearance of this petitioner/accused. According to the first respondent, the respondent police has conducted the investigation in a fair, free and impartial manner in accordance with law and therefore, there is no necessity to quash the above said proceeding.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the first respondent.

5. Admittedly the second respondent herein filed a complaint against the petitioner before the first respondent police and the first respondent has registered FIR in Crime No. 690 of 2009 under Sections 294(b) and 506(i) of IPC.

6. This Petition for quash the criminal proceedings has been filed by the petitioner under Section 482 Cr.P.C only on the ground that the first respondent has not filed the charge sheet. The learned counsel further pointed out that already the first respondent police has informed before this Court as charge sheet has been filed and thereafter the petitioner filed a copy application before the concerned Court for obtaining copy of charge sheet, but the Court has returned as charge sheet has not been filed. According to the petitioner, the first respondent again falsely contended as charge sheet has been filed and therefore, prayed for to quash the proceedings.

7. The learned Government Advocate (Crl. Side) has filed a status report by writing wherein it is clearly stated that the first respondent has filed charge sheet before the Judicial Magistrate, Ambur and the same was taken on file as C.C.No. 144 of 2010 dated 17.09.2010 and the case was posted on 05.02.2015 for accused's appearance.

8. This Court has already ordered the petitioner also to verify whether the above said calender case in C.C.No. 144 of 2010 is pending before the Magistrate Court, but the petitioner has not stated as the trial Court has not taken on file as contended by the learned Government Advocate (Crl. Side).

9. From the both side submissions, it is clear that the first respondent has filed charge sheet and the concerned Magistrate Court has taken on file in C.C.No. 144 of 2010. The main grievance of the petitioner is that the Magistrate has not given copy of charge sheet. Since the petitioner has not appear before Magistrate Court, copies not furnished. The petitioner having every right to appear before

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Court and to apply copy application for copies as per the provisions of criminal procedure code. Therefore, only on the above said ground, the criminal case pending cannot be quashed against the petitioner under Section 482 Cr.P.C. In the said circumstances, I am of considered view is that this Criminal Original Petition is liable to be dismissed.

10. In the result, this Criminal Original Petition is dismissed.

vsg

s/d-
Assistant Registrar(R)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police
   Ambur Town Police Station (L & O)
   Ambur
   Vellore District.

2. The Public Prosecutor
   High Court, Chennai

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