



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM:

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.28485 & 28486 of 2009

and

M.P.No.1 of 2009

[Orders Reserved on 24.08.2018]

Baskar Rao

... Petitioner / A2 in both Crl.O.Ps.

Vs.

1.M.K.Nandagopal

... Respondent / Complainant in
Crl.O.P.No.28485/2009

2.N.Janakiraman

... Respondent / Complainant in
Crl.O.P.No.28486/2009

COMMON PRAYER: Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.Nos.3184 & 3185 of 2007, respectively pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai - 8 and quash the same.

For Petitioner : Mr.V.Devendhiran

For Respondent : No Appearance

COMMON ORDER

This Criminal Original Petitions have been filed praying to quash the proceedings in C.C.Nos.3184 & 3185 of 2007, respectively pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai - 8.

2. The brief facts leading to filing of the present Criminal Original Petitions are as follows:-

(i) The petitioner is the Sub-Inspector of Police, attached to Villivakkam Police Station. While he was on duty on 14.03.2007, one Mathivanan came to the Police Station and lodged a complaint against one Janakiraman and his father Nandagopal alleging that on 26.02.2007 there was a quarrel between his son Madan and with Janakiram, the son of Nandagopal and with their friends and thereafter, they amicably settled the dispute. On 14.03.2007, the said Mathivanan and his son Madan, after worshipping, came out from the temple. At that time, the said



Janakiramna, who was standing there started to scold the Madan with filthy language and shouted at him. On seeing the attitude of the said Janakiramna, the said Mathivanan questioned about his behaviour in public place and immediately Nandagopal, father also joined with Janakirammand and shouted them. Hence, the said Mathivanan along with his son came to Villivakkam Police Station and lodged a complaint against the said Janakiramna and Nandagopal.

(ii) On the basis of the compliant, a case in Crime No.139 of 2007 was registered for an offence under Section 75 of City Police Act. On 15.03.2007, the said Nandagopal and Janakiraman, the accused in Crime No.139 of 2007 were called for interrogation. Thereafter, on completion of enquiry, the petitioner allowed them to go on executing a bail bond for their appearance before the Court on receipt of summons. The complainant was in custody for two hours and his son was in custody for 16 hours in the Police Station. In these circumstances, the said Nandagopal, who is an accused in Crime No.139 of 2007 has filed a private complaint against the petitioner with an ulterior motive to harass the petitioner and to wreck vengeance when there is no averment to prosecute the petitioner herein under Section 182, 341, 342, 500, 294(b) and 506(ii) of IPC., r/w Section 34 IPC., and Sections 211 and 193 IPC and the same was taken on file by the learned Chief Metropolitan Magistrate, Egmore, Chennai in C.C.Nos.3184 & 3185 of 2007 respectively.

3. The learned counsel appearing for the petitioner would submit that keeping the accused in crime under the custody of police for the purpose of interrogation will not amount to be a wrongful confinement. The petitioner has only performed the duty of interrogation, while discharging the duty as an Investigating Officer. Even though the complaint did not disclose any cognizable offence, as alleged by the complainant in his complaint, the learned Magistrate erred in taking the complaint on file. The sworn statement made by the complainant before the Court below are all false and frivolous in nature and in order to wreck vengeance against the petitioner herein, the complaint had been lodged, which is liable to be quashed.

4. Though there is no representation on behalf of the respondents, from the averments made in the typed set it could be seen that the petitioner detained the complainant in the lock up at Villivakkam Police Station. According to the complainants, there are averments to prosecute the petitioner herein under Sections 182, 341, 342, 500, 294(b) and 506(ii) of IPC., r/w Section 34 IPC., and Sections 211 and 193 IPC. The learned Magistrate was perfectly right in taking the private complaint on file.



5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record. There is no representation for the respondents.

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6. Keeping pending the above case, which is of nearly 10 years old would only compound to pending of the case without any progress. Hence, the case is taken up for disposal, on merits, with the materials available.

7. The fact that the petitioner was working as Sub-Inspector of Police at the relevant point of time is not in dispute. Based on the complaint of the defacto complainant, the respondents herein were called for an enquiry. There is absolutely no material in the allegations made, except the statement given by the respondent herein, which has been made meticulously to spite vengeance. The act of the petitioner is in discharge of his official duty.

8. It is well established that the inherent jurisdiction of the High Court can be exercised to quash the proceedings in a proper case either to prevent the abuse of the process of any Court or otherwise to secure the ends of justice. Ordinarily, criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. The allegations made in the complaint, even if they are taken at their face value and accepted in its entirety, do not prima facie make out a case against the petitioner and the proceedings is manifestly attended with malafide. In order to secure the ends of justice, this Court is inclined to quash the proceedings in C.C.Nos.3184 & 3185 of 2007, respectively pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai - 8.

9. In the result, the Criminal Original Petitions are allowed and the proceedings in C.C.Nos.3184 & 3185 of 2007, respectively pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai - 8, are quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

MPK



1.The Chief Metropolitan Magistrate,
Egmore, Chennai - 8

2.The Public Prosecutor,
Madras High Court,
Madras.

Crl.O.P.Nos.28485 & 28486 of 2009

NMI (CO)
GN(13/02/2019)