

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.06.2015

DELIVERED ON : 24.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.25166 of 2013

K.Arumugam

..Petitioner

Vs

- 1.The State rep by
Director General of Police
Tamilnadu
Chennai 600 004.
- 2.Deputy Inspector General of Police
Villupuram District.
- 3.Superintendent of Police
Villupuram District
Villupuram.
- 4.Inspector of Police
Vigilance and Anti-corruption Cell
Villupuram.

..Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondents to register the case based on the complaint given by the petitioner dated 26.04.2013 and to investigate and file a final report in accordance with law.

For Petitioner Mr.A.Antony Arockiaraja

For respondents Mr.M.Mohammed Riyaz
Govt.Advocate [crl.side]

ORDER

This petition has been filed to direct the respondents to register the case based on the complaint given by the petitioner dated 26.04.2013 and to investigate and file a final report in accordance with law.

2. Heard the learned counsel for the petitioner and the learned Government Advocate [crl.side] appearing for the State.

3. It is the case of the petitioner that, on a false complaint lodged by his brother Kannan, the respondent police registered a case in Cr.No.61 of 2013 on 14.04.2013 for an offence under Section 435 IPC ignoring the complaint dated 26.04.2013 given by the petitioner to take suitable action against Gunabalan, the Sub Inspector of Police for certain alleged acts of aggression and assault on the petitioner and his family members.

4. Mr.S.Manoharan, I.P.S., the Superintendent of Police, Villupuram District has filed a Status Report, wherein it is stated as follows in paragraph nos.11,12 and 13:

"11. I submit that Thiru T.Chandrasekaran, Inspector of Police, conducted an enquiry and enquired the petitioner Arumugam, witnesses Ravi, Ramalingam, Saravanan, Deivasigamani and recorded the statements from them. The enquiry disclosed that the petitioner's brother Kannan was residing in a poromboke land adjacent to his land. The petitioner Arumugam and his 2 sons claimed that the above land is belonging to them. Due to the dispute, on the night of 07.04.2013 the petitioner and his 2 sons alongwith some others went to the said house and set fire the same. Based on the complaint given by the said Kannan a case was registered against the petitioner Arumugam and his 2 sons in Kandachipuram Police Station Cr.No.61/2013 u/s 435 IPC and altered into 436 IPC during the course of investigation Thiru Gunabalan Sub Inspector of Police was engaged in election duty at Kanakkankuppam village on 09.04.2013.

12. I submit that Enquiry Officer, Thiru Chandrasekaran concluded that in order to stall the investigation in the case registered against the petitioner Arumugam and his 2 sons and in order to escape from the above case, the petitioner Arumugam with an ulterior motive sent petitions to the higher police officials to tarnish the image of the Thiru Gunabalan, Sub Inspector of Police. The witnesses categorically stated that the petitioner's son was not dragged on to the police station, they were not threatened and they were not threatened to withdraw the civil case. In view of the case was registered against the petitioner Arumugam and his 2 sons based on the complaint given by the petitioner's brother, in Kandachipuram Police Station Cr.No.61/2013 the petitioner has sent petitions containing false allegations.

13. I submit that the petitioner's petition dated 26.04.2013 was duly enquired by the Inspector of Police, Arakandanallur Police Station and found that the allegations made in the above petition are false. I submit on perusal of the records it is revealed that the allegation made by the petitioner is not true and not maintainable in law or on facts."

5. The learned counsel for the petitioner submitted, that the FIR in Cr.No.61 of 2013 itself is false, because there is no house located near the pond as alleged by the defacto complainant, Kannan. In support of this contention, the learned counsel for the petitioner relied upon the reply he has received from the Tahsildar under the RTI Act, wherein it is stated that, Kannan is not residing in S.No.143.

6. This Court carefully considered the submissions and found that, the reply under the RTI Act cannot be a ground for quashing the FIR and only during the course of full investigation, true facts will come to light. Kannan in his complaint has stated that, he is living in the house near the pond and the petitioner and two others had set the house on fire due to previous enmity. The reply from Tahsildar is dated February 2014, whereas the alleged incident had taken place in April 2013. That apart, Kannan in his complaint has not stated that, he had his house in S.No.143. Therefore, this Court cannot place much reliance on the letter issued by the Tahsildar to the petitioner under the RTI Act.

In the result, this petition is devoid of merits and the same is dismissed.

gms

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Director General of Police
Tamilnadu
Chennai 600 004.

2.Deputy Inspector General of Police
Villupuram District.

3. Superintendent of Police
Villupuram District
Villupuram.

4. Inspector of Police
Vigilance and Anti-corruption Cell
Villupuram.

5. The Public Prosecutor
High Court, Madras.

+ 1 cc to Public Prosecutor SR 31509

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