



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Cr1.O.P. (MD) No.21157 of 2015

and

M.P. (MD) No.1 of 2015

Dr.K.Krishnasamy

... Petitioner

-Vs-

1.The State rep. By
The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District
(In Crime No.354 of 2015)

2.K.Vijayakanth
Village Administrative Officer,
Venethoni Group,
Paramakudi Taluk,
Ramanathapuram

... Respondents

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records to the FIR in Crime No.354 of 2015, dated 15.09.2015 pending on the file of the 1st respondent and to quash the same in so far as the petitioner is concerned, as illegal.

For Petitioner : Mr.M.Rajendran

For Respondent-1: Mr.C.Mayilvahana Rajendran
Addl.Public Prosecutor,

O R D E R

This petitioner has come forward with this application, seeking to quash the FIR in Crime No.354 of 2015, dated 15.09.2015, pending on the file of the 1st respondent in so far as the petitioner is concerned.

2. The case of the petitioner is that a case against him has not been made out and that there was an order under 144 promulgated by the District Collector, Ramanathapuram and the petitioner was also allotted time between 1.30 p.m., to 2.00 p.m., on 11.09.2015, to pay homage to the martyrs days held on 11.09.2015. The defacto complainant has made a complaint before the first respondent on 15.09.2015, against the petitioner and that a case was registered in Crime No.354/15, for the offences under Sections 143 and 188 of IPC.



3. Mr.M.Rajendran, learned counsel appearing for the petitioner would submit that he is the founder of a political party. He has been falsely implicated in this case and that there is no case much less *prima facie* case made against the petitioner herein. The First Information Report has been registered against the petitioner with total non-application of mind, irrelevant facts and extraneous consideration. Since the allegation against the petitioner is unsustainable, the FIR has got to be interfere with by this Court.

4.Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the prosecution would submit that the petitioner was allotted time between 1.30 p.m., to 2.00 p.m., on 11.09.2015 to pay homage to the martyrs day, held on 11.09.2015 at Paramakudi and admittedly, the petitioner and others have entered the place at 5.30 p.m., to 6.45 p.m., on 11.09.2015. Adding further he would submit that whether a case has been made out or not, is a matter for evidence and that the allegation that due to political enmity, he has been falsely implicated into the offence are far-fetched. Therefore, he prayed for dismissal of the Criminal Original Petition.

5. In reply, the learned counsel appearing for the petitioner relied upon a Judgment of the Hon'ble Delhi High Court in **Bhoop Singh Tyagi Vs. State** reported in **(2002 CRI.L.J.2872)**, wherein, in paragraph 7, it has been held as follows:-

7. The provision provides for two types of punishments for knowingly disobeying a validly promulgated order by a public servant. Its ingredients are :-

(1) there must be an order promulgated by a public servant.

(2) such public servant must be lawfully empowered to promulgate such order.

(3) A person must have a knowledge of such order directing him to abstain from an act or (b) to take certain order with certain property in his possession or under his management.

(4) He must disobey the order having its knowledge.

(5) Such obedience must cause or tend to cause (a) obstruction, annoyance or injury or risk of it to any person lawfully employ or (b) danger to human life, health and safety.

6. Even though the petitioner has invited the attention of this Court to para 11 of the Judgment, wherein it is held that 'a perusal of the FIR does not indicate that the petitioner had knowledge about the Police Commissioner's order'. But, in the case on hand, the petitioner was given a specific time to pay the homage, as stated supra. At this juncture, it is relevant to refer



to the recent Judgment of the Hon'ble Supreme Court in **HMIT Watches Ltd., Vs. M.A.Abida & Another** reported in **(2015(2) CTC 446)** wherein it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaints.

7. In view of the decision of the Hon'ble Apex Court, reported in **(2015(2) CTC 446)** cited supra, I find no force in the argument of the petitioner and hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+lcc to Mr.M.Rajendran, Advocate Sr.No.64913

+lcc to Mr.Kutti Jegan, Advocate Sr.No.65054

akm/25.11.15 /3p-5c/

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