

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.06.2016

PRONOUNCED ON: 15.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No. 10031 of 2016 & Crl.M.P. No.5327 of 2016

S. Vijayakumar Petitioner/Accused

vs.

- 1 The Inspector of Police
Marakkanam Police Station
Marakkanam
Villupuram District 1st Respondent/Complainant
- 2 Ms. Viji
Sub-Inspector of Police
Marakkanam Police Station
Marakkanam
Villupuram District - 604 303 2nd Respondent/Defacto
Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records pertaining to the case pending in C.C. No.57 of 2016 on the file of the Judicial Magistrate - II, Tindivanam and quash the proceedings.

For petitioner Ms. M. Malar

For respondents Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to call for the records pertaining to the case pending in C.C. No.57 of 2016 on the file of the Judicial Magistrate - II, Tindivanam and quash the proceedings.

2 Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents-State.

3.1 On 17.12.2015, around 17 hrs., when the second respondent, viz., Ms. Viji, Sub-Inspector of Police, Marakkanam Police station and two other policemen were conducting vehicle check near the Anumanthai Tollgate, the petitioner/accused came in a motor bike bearing Regn. No. PY 01 CE 1872 and his vehicle was stopped for routine check. The petitioner/accused was not wearing helmet. The second respondent asked the petitioner/accused to produce his driving licence and vehicle records, for which, the latter appears to have picked up a quarrel with her and had abused her using choosy epithets. When the second respondent prepared a challan for violation of Rule 37(1) read with Sections 177 and 192 of the Motor Vehicles Act, 1988 the petitioner/accused refused to receive it and further threatened the second respondent that if he gives a call, hundreds of his villagers will assemble. That apart, when the second respondent attempted to prevent the petitioner/accused from moving, he has misbehaved with her and pushed her and thereafter, took away his motor bike.

3.2 On the complaint lodged by the second respondent, the first respondent, viz., the Inspector of Police, F-5 Marakkanam Police Station, registered a case in Crime No.501 of 2015 against the petitioner/accused on 17.12.2015 for offences under Section 294(b), 353, 506(i), IPC, read with Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 and after completing the investigation, has filed a final report in C.C. No.57 of 2016 before the Judicial Magistrate No.II, Tindivanam for the aforesated offences, besides Rule 37(1) read with Sections 177 and 192 of the Motor Vehicles Act, challenging which, the petitioner/accused is before this Court.

4 The learned counsel for the petitioner submitted that the petitioner was assaulted by the police, for which he gave a complaint dated 07.01.2016 and since the police did not take any action on his complaint, he filed Crl.O.P. No.2215 of 2016 before this Court seeking a direction to the police to register a case on his complaint; this Court, by order dated 02.03.2016 passed in Crl.O.P. No.2215 of 2016, had directed the respondent police to conduct enquiry on the petitioner's complaint and take suitable action in accordance with the law laid down by the Supreme Court in Lalita Kumari vs. Government of Uttar Pradesh and others, (2014) 2 SCC 1. The learned counsel further submitted that soon after the incident, the petitioner had given a complaint against the second respondent alleging that she and five other policemen had assaulted him on 17.12.2015 around 7.40 p.m. near the Anumanthai Check Post.

5 This Court gave its anxious consideration to the submissions of the learned counsel for the accused and the learned Additional Public Prosecutor.

6 It is pertinent to point out that for the incident that is said to have taken place on 17.12.2015, the petitioner has given a complaint only on 07.01.2016. The learned counsel for the petitioner submitted that immediately thereafter, the petitioner has sent a complaint to the Commissioner of Police and also Human Rights Commission, a copy of which, was also sent to the Inspector General of Police, Villupuram, Superintendent of Police, Villupuram and Deputy Superintendent of Police, Kattakuppam. The learned counsel further submitted that he has enclosed a copy of the said complaint addressed to the Human Rights Commission in page no.5 of the typed set of papers.

7 On a perusal of the complaint enclosed in page no.5 of the typed set of papers, it is seen that the said complaint does not even contain any date. Even in the complaint dated 07.01.2016, the petitioner has not referred to the earlier complaint. Thus, it is clear that the complaints lodged by the petitioner are merely an after-thought in order to set up a case against the second respondent for escaping from the clutches of criminal prosecution that has been launched against him.

8 In view of the foregoing discussion, this Court is of the considered view that there are sufficient materials on record for the trial to proceed against the petitioner. In State of Haryana vs. Bhajan Lal, 1992 Supp. (1) SCC 335, the Supreme Court has laid down the paramaters for quashing a prosecution and the case on hand does not pass muster the law laid down therein.

In the result, this Criminal Original Petition stands dismissed, as being devoid of merits. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
Marakkanam Police Station
Marakkanam
Villupuram District

2 Ms. Viji
Sub-Inspector of Police
Marakkanam Police Station
Marakkanam
Villupuram District - 604 303

3 The Public Prosecutor
High Court of Madras
Chennai 600 104

1 cc to M/s.M.Malar, Advocate, sr.32742

CrI.O.P. No.10031 of 2016

bvr co
kra 21.06.2016



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