

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM:

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

CrI.O.P. No.29458 of 2011

1.Stephen Srivatsan

S/o.Rengasami

formerly District Sales Manager

Oman Air

2.K. Ponnusamy

formerly Inspector of Police

Team IX, Central Crime Branch

Chennai - 600 008

... Petitioners/Accused

Vs.

1.The Commissioner of Police

Greater Chennai

Egmore, Chennai 600 008.

.... Respondent

2.The Inspector of Police

Central Crime Branch

Team - V

Egmore, Chennai 600 008

... Respondent/Complainant

3.N. Swaminathan

... Respondent/Defacto
Complainant

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records pertaining to Cr. No.360 of 2010 pending before the second respondent and quash all further proceedings in respect of the above FIR against the petitioners/accused.

For Petitioners : Mr. Abdul Razak

For RR 1 & 2

: Mr. C. Emalias

Additional Public Prosecutor

For R3

: M/s. Rubert J. Barnabas &

Vimal B. Crimson

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to Cr. No.360 of 2010 pending before the second respondent and quash all further proceedings in respect of the above FIR against the petitioners/accused.

2. Mr. R. Gopalaguru, Inspector of Police, CCB, Chennai is present.

3. Swaminathan, the third respondent herein, filed a private complaint in M.P. No.1391 of 2010 before the Chief Metropolitan Magistrate Court, Egmore and on the directions of the said Magistrate under Section 156(3), Cr.P.C., the second respondent police registered a case in Cr. No.360 of 2010 on 24.07.2010 against Stephen Srivatsan and Ponnusamy, challenging which, the accused are before this Court.

4. It is seen that Ponnusamy was the Inspector of Police, CCB, at the relevant point of time. On the complaint of Stephen Srivatsan, the CCB police registered a case in X Cr. No.534 of 2008 on 31.07.2008 under Sections 419, 420, 465 and 468 read with Section 471, IPC and Section 24(i)(b) of the Emigration Act, 1983, against Swaminathan. In the FIR in X Cr. No.534 of 2008, the allegation by Stephen Srivatsan is that Swaminathan impersonated himself as the Manager of Oman Air and had collected money from various persons promising them to get job and subsequently reneged. Pursuant to the registration of the FIR, Swaminathan was arrested by Ponnusamy on 31.07.2008 and was remanded to judicial custody. After release on bail, Swaminathan lodged a private complaint against Stephen Srivatsan and Ponnusamy alleging that he has been falsely implicated in the case in Cr. No.534 of 2008. While so, the police completed the investigation in Cr. No.534 of 2008 and filed the final report against Swaminathan in C.C. No.2403 of 2012 before the Chief Metropolitan Magistrate Court, Egmore and the same is under consideration.

5. In the impugned FIR in Cr. No.360 of 2010 registered pursuant to the private complaint lodged by Swaminathan, he has made reckless allegations against Stephen Srivatsan (de facto complainant in Cr. No.534 of 2008) and the police who had arrested him in connection with Cr.No.534 of 2008. It may be apposite to extract the allegation in the FIR as under:

"On 31st July 2008, when the petitioner was about to leave from office, He was arrested by 2 personnel from CCB directing him to accompany them for an enquiry assuming it was related to the complaint filed by the petitioner, he did to dismay/surprise or reach

the offices of the CCB at Egmore. All personal belongings were seized clearly violating sec. 102(3) of Cr.P.C. The petitioner was not permitted to use the phone to call his family/friends for help violating the guidelines of the Apex Court, apart from violating article 20(3) read with 22 of the Constitution.

The Psychic torture began then - clearly violating Article 20(3) of the Constitution read with Sec.162(2) of Cr.P.C. wherein the petitioner was made the victim by the said Inspector to protect vested interests. It is to be noted that the said Inspector had deliberately with malicious/vindictive intention violated Sec.167 of IPC with deliberate intentions to safeguard and protect the interests of the actual culprits."

The above are self-serving statements of Swaminathan in order to set up a defence in the prosecution against him in Cr. No.534 of 2008.

6. That apart, it is reported that there is yet another case against Swaminathan registered by the police, viz., Cr. No.64 of 2006 on 25.01.2006 which has been registered on the complaint of one Premnath on similar allegation that he had collected money for getting Australian visa.

7. In view of the foregoing, this Court is of the considered view that the present FIR is clearly an abuse of process of law and hence, the same is quashed.

Resultantly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

cad

To

1.The Commissioner of Police
Greater Chennai
Egmore, Chennai 600 008

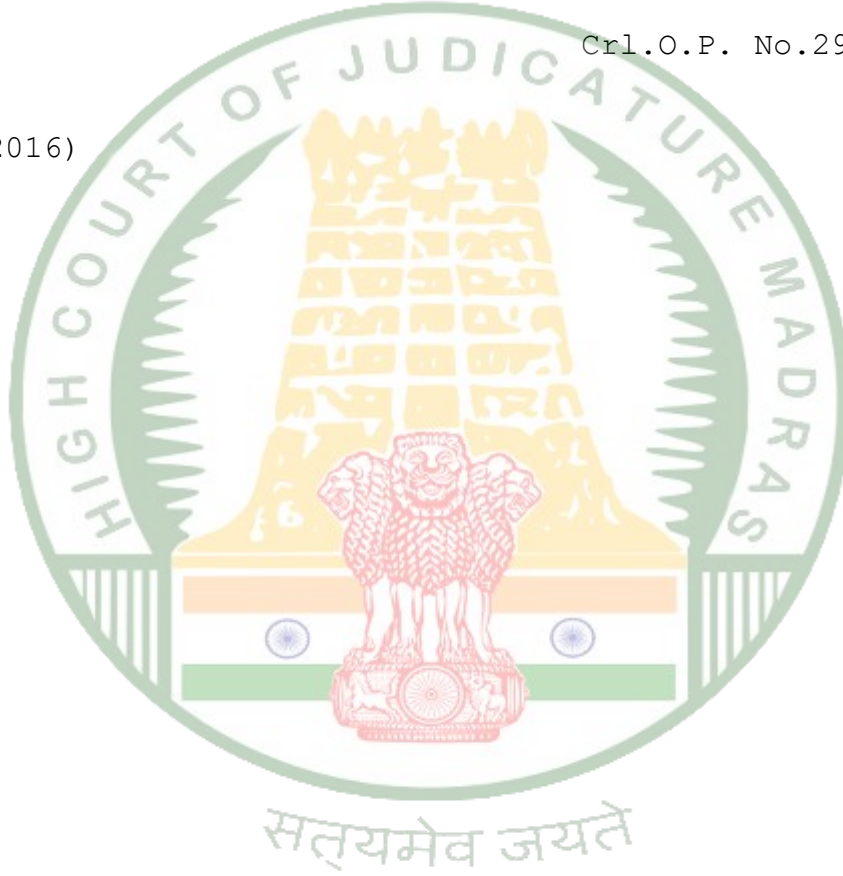
2.The Inspector of Police
Central Crime Branch
Team - V
Egmore, Chennai 600 008

3.The Public Prosecutor
Madras High Court
Chennai - 600 104.

+1cc to M/s.Razhaq Associates, Advocate, S.R.No.70336

Cr1.O.P. No.29458 of 2011

PVS (CO)
CA(29/12/2016)



WEB COPY