

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.28511 of 2015

Reserved on 04.01.2016

K.Seethapathy

..Petitioner/Accused

Vs

The Inspector of Police,
Panruti Police Station

..Respondents/Complainant

Prayer: This Petition is filed under Section 482 Cr.P.C., praying to call for the records in C.C.No.119 of 2015 on the file of the Judicial Magistrate No.1, Panruti, Cuddalore District, pending trial and quash the same.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

This petition has been filed by the petitioner, praying to call for the records in C.C.No.119 of 2013 pending on the file of Judicial Magistrate No.1, Panruti, Cuddalore District and quash the same.

2. The petitioner herein has been arrayed as accused in C.C.No.119 of 2015, facing trial for the alleged offence punishable under Section 304(A) IPC. The case of the prosecution is that on 5.3.2015, the defacto complainant's brother's son, namely, one Kalaiyarasan was travelling in a two wheeler bearing registration No.TN 31 AH 2314 near Tamil Nadu Mercantile Bank ATM from West to East on Cuddalore road, one car came in a rash and negligent manner and dashed against the said two wheeler, as a result of which, the said Kalaiyarasan sustained head injuries and succumbed to his injuries. The defacto complainant lodged a complaint with the respondent police, based on which, a case in Crime No.120 of 2015 was registered for the offence under Section 304(A) IPC. After completion of investigation, the respondent police filed a

charge sheet before the learned Judicial Magistrate No.I, Panruti, which was taken on file as C.C.No.119 of 2015. The petitioner has come forward with the present petition, seeking to quash the proceedings.

3. The learned counsel appearing for the petitioner would submit that the petitioner is working as Special Sub Inspector, Olakur Police Station, Villupuram District and he has been falsely implicated in the case since in the complaint lodged by the defacto complainant, it has been stated that the deceased was hit by an unknown vehicle. He pointed out that there was no description of the car, colour registration number and brand of the car, etc., in the complaint lodged by the defacto complainant, however, curiously in 161 Cr.P.C. statement recorded by the respondent police, the defacto complainant had given all the above details, which throws a considerable doubt as to whether the defacto complainant could have really witnessed the occurrence. But the respondent police came to an illogical conclusion that the car owned by the petitioner was involved in the crime. He also submitted that the respondent police filed the charge sheet on 24.3.2015 before the Magistrate, whereas, the car was sent to RTO for inspection only on 23.3.2015 and the report of the RTO was shown as if it was given only on 24.3.2015 and the respondent police received RTO report on 24.3.2015 and on the same day, final report was filed and hence, there is discrepancy. He would also submit that the car said to have been driven by the petitioner was not involved in any accident and no documentary evidence was produced to establish the same. Therefore, the learned counsel sought for quashing the proceedings.

4. On the other hand, learned Additional Public Prosecutor would submit that during the course of investigation, the respondent police have examined totally 13 witnesses and collected material evidence which would prima facie implicate the petitioner for the alleged offence and therefore, at this stage, it is not appropriate to quash the proceedings. Hence, he sought for dismissal of the petition.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the entire materials available on record.

6. It is not in dispute that in a motor accident occurred on 5.3.2015 near Tamil Nadu Mercantile Bank ATM on Cuddalore Road, one Mr.Kalaiyaran, who was travelling on a motor cycle, succumbed to the injuries since his motor cycle was hit by a car and based on a complaint lodged by the defacto complainant, a case was registered and on completion of the investigation, a charge sheet was filed and it was taken on file as C.C.No.119 of 2015 by the learned Judicial Magistrate No.1, Panruti.

According to the prosecution, during the investigation, the respondent police examined the witnesses and it is revealed that the deceased and his friend Vishnuraj went to shopping on 5.3.2015 in two motor cycles and after completion of shopping, while returning, one car came in a rash and negligent manner and hit the deceased motor cycle and ran away, while so, the said Vishnuraj followed the vehicle and identified the car and its number, i.e. Maruti Suzuki Swift Desire bearing Registration No.TN10AQ 1795. On verification, it is further revealed that one Mr.Roopanathan is the owner of the vehicle, who stated that he gave the vehicle to the petitioner to attend a marriage function on the date of incident. Therefore, it appears that on conducting proper investigation only, the petitioner has been implicated in the case. Hence, I am of the view that the petitioner has not made out any ground to quash the proceedings.

7. It is settled law that the powers possessed by the High Court under Section 482 of the Code are wide and the very plenitude, require a great caution in its exercise. Power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too, in the rarest of rare cases. In "Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi and Others" reported in (1976) 3 SCC 736, the Hon'ble Supreme Court has enunciated the circumstances under which the process against the accused can be quashed or set aside, which read as under :

"(1) where the allegations made in the complaint or the statements of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused;

(2) where the allegations made in the complaint are patently absurd and inherently improbable so that no prudent person can ever reach a conclusion that there is sufficient ground for proceeding against the accused;

(3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary having been based either on no evidence or on materials which are wholly irrelevant or inadmissible; and

(4) where the complaint suffers from fundamental legal defects, such as, want of sanction, or absence of a complaint by legally competent authority and the like".

8. Keeping in mind the above, when the case on hand is analyzed, I am of the opinion that the present case would not fall within any of the above factors so as to invoke inherent jurisdiction of this Court to quash the proceedings.

Accordingly, the present Criminal Original Petition is dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.I
Panruti Cuddalore District

2.Through The Principal Sessions Judge,
Cuddalore District

3. The Inspector of Police
Panruti Police Station,
Panruti

4.The Public Prosecutor
High Court, Chennai

+1 cc to Mr.C.D.Johnson Advocate sr.5632

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