

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 12.08.2016

PRONOUNCED ON: 03.10.2016

CORAM:

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

Crl.O.P. No.17575 of 2016

S. Diwakar

Petitioner

vs.

The Joint Commissioner of Police
Office of the Joint Commissioner of Police
Chennai South Zone
St. Thomas Mount
Chennai 600 016

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking a direction to the respondent to set aside the pre-dated intimation sent on 20.07.2016 in complaint dated 18.06.2016 on the file of R-7, K.K. Nagar Police Station and to take action in both the complaints in his file in accordance with law.

For petitioner Mr. S. Diwakar
Petitioner-in-person

For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the respondent to set aside the pre-dated intimation sent on 20.07.2016 (sic) 10.07.2016 in complaint dated 18.06.2016 on the file of R-7, K.K. Nagar Police Station and to take action based on his complaint.

2 The petitioner is a practising advocate. He gave a complaint to the Inspector of Police, R-7 K.K. Nagar Police Station, Chennai, on 18.06.2016, based on which a preliminary enquiry was conducted in C.S.R. No.272/2016 and the same was closed on 10.07.2016, aggrieved by which, he has filed the present Criminal Original Petition seeking the above said relief.

3 Heard Mr. S. Diwakar, petitioner-in-person and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the respondent-State.

4 The grievance of the petitioner-in-person is that on his complaint dated 18.06.2016, the Inspector of Police, K.K. Nagar Police Station ought to have registered an F.I.R., inasmuch as his complaint discloses commission of a cognizable offence and instead, he ought not to have conducted an enquiry and closed the same on the ground that the allegations in the complaint are baseless.

5 This Court carefully perused the complaint dated 18.06.2016 given by the petitioner-in-person. In that complaint, he has alleged that one Dalit Tiger C. Ponnusamy, an advocate, got acquainted with him and utilised his services in some cases and had promised to remunerate him, but, did not keep up his promise. Therefore, it is alleged by the petitioner-in-person that on 18.06.2016, around 2.45 p.m., he went to a Public Call Office (PCO) and made a call to the mobile number of Dalit Tiger C. Ponnusamy to remind him of his promise. Dalit Tiger C. Ponnusamy attended the call and is said to have abused the petitioner-in-person and intimidated him saying that he would kill him, if he makes phone calls demanding money. On the strength of this alleged statement, the petitioner-in-person wants the police to register an F.I.R. against Dalit Tiger C. Ponnusamy.

6 Mr. C. Emalias, learned Additional Public Prosecutor appearing for the respondent-State submitted that the police conducted an enquiry by examining Dalit Tiger C. Ponnusamy, the PCO attendant and certain others and came to the conclusion that there is no basis in the complaint given by the petitioner-in-person.

7 In a case of this nature, where, one advocate is making allegations against another advocate, it is but natural for the police to act with great circumspection and trepidation. In *Lalita Kumari vs. Govt. of U.P. & others* [(2014) 4 SCC 1], the Supreme Court has stated that in certain cases, preliminary enquiry can be conducted by the police in certain circumstances and in the opinion of this Court, in the circumstances of this case, the conduct of preliminary enquiry by the police cannot be faulted. The complaint dated 18.06.2016 does not inspire the confidence even to this Court, as it is evident that there is some misunderstanding between the petitioner-in-person and Dalit Tiger C. Ponnusamy, as a consequence of which, the former has made the aforesaid allegation against the latter.

8 That apart, the petitioner-in-person has not even arrayed the Inspector of Police, K.K. Nagar Police Station as

respondent in this Criminal Original Petition and instead, he has arrayed the Joint Commissioner of Police as the sole respondent.

9 When this Court posed a question to the petitioner-in-person qua not arraying the Inspector of Police as a respondent herein, he submitted that since the Inspector of Police did not register a regular F.I.R., he made a further representation to the Joint Commissioner and therefore, it would suffice if the Joint Commissioner alone is made as the respondent. This Court is not able to countenance this submission, because, the Joint Commissioner is not an appellate authority in matters of investigation over the Station House Officer.

In any event, the petition is devoid of merits and is accordingly dismissed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Joint Commissioner of Police
Office of the Joint Commissioner of Police
Chennai South Zone
St. Thomas Mount
Chennai 600 016
- 2 The Inspector of Police
R-7, K.K. Nagar Police Station
Chennai
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

1 cc to M/s.S. Diwakar, Advocate, Sr. 56519

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