

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2016

CORAM:

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

CrI.O.P. No.19436 of 2016
and CrI.M.P.No.9105 of 2016

R.Suresh Kumar

Petitioner/Accused

vs.

1. Sub-Inspector of Police
R-1, Mambalam Police Station
Law and Order Division
T.Nagar, Chennai 600 017.

Respondents No.1

2.RajaRajeswaran

2nd Respondents/Defacto
Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the entire records pertaining to C.C.No.2751 of 2016
pending before the learned XVII Metropolitan Magistrate,
Saidapet, Chennai, quash the same as against the petitioner.

For petitioner

Mr.M.Palanivel

For Respondents

Mr. C. Emalias

Additional Public Prosecutor for R1

Mr.Selvendran for R2

ORDER

This petition has been filed to call for the entire records
pertaining to C.C.No.2751 of 2016 pending before the learned
XVII Metropolitan Magistrate, Saidapet, Chennai, quash the same
as against the petitioner.

2. Heard the learned counsel for the petitioner, learned
counsel for the de facto complainant and the learned Additional
Public Prosecutor appearing for the State.

3. On the complaint lodged by Raja Rajeswaran, the
respondent police registered a case in Cr.No.493 of 2016 on
11.04.2016 and after completing the investigation, have filed a
Final Report in C.C.No.2751 of 2016 before the learned XVII
Metropolitan Magistrate, Saidapet, Chennai for offences u/s 294-

B and 506(i) IPC, challenging which Suresh Kumar is before this Court.

4. Learned counsel for the petitioner submitted that the entire case has been engineered by his rival Boominathan and his wife Uma Maheshwari, who were his erstwhile partners in Amirta International Institute of Hotel Management and that on account of dispute between them, they parted Company. Learned counsel took this Court through the FIR and submitted that a reading of it cannot inspire the confidence of this Court, inasmuch as on the face of it, it sounds so improbable. The learned counsel also submitted that on the complaint given by Suresh Kumar, the Central Crime Branch, Coimbatore, has registered a case in Cr.No.19 of 2016 on 09.05.2016 against Boominathan and Uma Maheshwari for offences u/s 420 IPC, Sections 65 and 66D of the Information Technology Act, 2000 and therefore, as a counter blast, the present prosecution has been engineered against the petitioner by Boominathan and Uma Maheshwari through their Manager Rajarajeswaran.

5. Per contra, the learned Additional Public Prosecutor submitted that the present case in Cr.No.493 of 2016 was registered on 11.04.2016 by the Special Sub Inspector of Police, R-1 Mambalam Police Station, Chennai, but whereas, the complaint given by the petitioner to the Central Crime Branch, Coimbatore is subsequent to this FIR and the same was registered only on 09.05.2016 in Cr.No.19 of 2016 and therefore, it cannot be stated that this prosecution is a counter blast to the complaint lodged by the petitioner against Boominathan and Uma Maheshwari.

6. This Court gave its anxious consideration to the rival submissions and carefully perused the Final Report and the accompanying documents.

7. In the complaint given by Raja Rajeswaran, he has clearly stated that on 24.12.2015, some posters defaming the Institute run by Boominathan were being struck at various places and when he questioned it, he was threatened and abused by Suresh Kumar, the petitioner herein.

8. The learned counsel for the petitioner submitted that in the FIR it has been alleged by Raja Rajeswaran that the incident had taken place on 24.12.2015, but whereas in the Final Report it is stated that the incident had taken place on 26.12.2015 and this discrepancy is fatal to the case of the prosecution.

9. In the considered opinion of this Court, the Court takes cognizance on the Final Report and the accompanying documents like 161 Cr.P.C. statements filed along with it and thereafter,

charges are framed based on the materials collected by the police and not on the ipse dixit of the police in the Final Report. The discrepancy in the said date is a matter of evidence, which cannot be a ground for this Court to quash the entire prosecution in exercise of powers u/s 482 Cr.P.C. In State of Haryana v. Bhajan Lal [AIR 1992 SC 604], the Supreme Court has laid down the parameters for quashing a prosecution and the facts obtaining in this case do not pass muster the law laid down therein.

10. The police have examined 8 witnesses to speak about the incident and it is too pre-mature for this Court to apprise the intrinsic quality of the police statement and conclude that they are not worthy of acceptance.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. Sub-Inspector of Police, R-1, Mambalam Police Station
Law and Order Division, T.Nagar, Chennai 600 017.
 2. XVII Metropolitan Magistrate, Saidapet, Chennai.
 3. The Chief Metropolitan Magistrate, Egmore, Chennai.
 4. The Public Prosecutor, High Court of Madras, Chennai 600 104.
- +1 cc to Mr.M.Palanivel, advocate, sr.50089.

gr(co)
krd 8/9

Cr1.O.P. No.19436 of 2016

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