

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM

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

Crl.O.P. No.27002 of 2010 and

M.P.Nos.1 and 2 of 2010

E.Sivanesan

Petitioner

vs.

State rep by

The Inspector of Police

Pazhavanthangal Police Station

Pazhavanthangal, Chennai.

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to call for records to quash the criminal proceedings initiated by the respondent in Cr.No.368 of 2010 dated 05.11.2010.

For petitioner Ms.G.Sudha
for Mr.S.Mohanasundararajan

For respondent Mr.C.Emalias,
Additional Public Prosecutor, for R1

ORDER

This petition has been filed to call for records and to quash the criminal proceedings initiated by the respondent in Cr.No.368 of 2010 dated 05.11.2010.

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

3. On the complaint lodged by Bharath Kumar, the respondent police have registered a case in Cr.No.368 of 2010 on 05.11.2010 u/s 294(b), 341, 323 and 506(ii) IPC against Boopathy and his father Sivanesan, challenging which Sivanesan is before this Court.

4. On a reading of the FIR it is seen that, on Deepavali day, crackers were being burst in the street by the complainant and the accused in front of their houses. While so it is alleged by the complainant that Boopathy was deliberately bursting rocket crackers pointing towards the house of the complainant, on account of which the complainant's car was damaged. When the complainant questioned Boopathy, he appears to have assaulted the complainant. It is further alleged that Sivanesan, father of Boopathy also joined hands and attacked the complainant.

5. Learned counsel for the petitioner submitted that Sivanesan is a 75 years old infirm man and the entire allegation appears very improbable.

6. This Court carefully perused the FIR and it is seen that the de facto complainant is aged about 33 years old and it is alleged in the complaint that Boopathy was drunk at that time. On account of a quarrel in connection with the bursting of crackers, this fight appears to have ensued between Boopathy and complainant. The allegations against the petitioner are indeed very frail.

In the result, this petition is allowed and the prosecution as against the petitioner/Sivanesan alone in Cr.No.368 of 2010 is hereby quashed. Investigation in Cr.No.368 of 2010 shall proceed against Boopathy. Consequently, connected miscellaneous petitions are closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

gms

To

1.The Inspector of Police
Pazhavanthangal Police Station
Pazhavanthangal, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1 c.c to M/S.S. MOHANASUNDARARAJAN, ADVOCATE SR.NO. 57598
MMP 22.10.2016

Cr1.O.P. No.27002 of 2010

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05.10.2016



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