

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2016

CORAM:

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

Cr1.O.P. No.26048 of 2016

Kumar Petitioner/Accused-1
vs.
1 State, represented by
the Inspector of Police
Bagayam Police Station
Vellore Taluk and District 1st Respondent/Complainant
2 Murugan
Director
VDS Matriculation School
Edayansanthu
Vellore 632 002 2 Respondent/Defacto
Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to call for the records of the FIR in Cr. No.458 of 2016
dated 20.09.2016 on the file of the first respondent and quash
the same.

For petitioner सत्यमेव जयते Mr. T.Jeevanantham
For R1 Mr. C. Emalias
Addl. Public Prosecutor

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ORDER

This Criminal Original Petition has been filed seeking to
call for the records of the FIR in Cr. No.458 of 2016 dated

20.09.2016 on the file of the first respondent and quash the same.

2 One D.S. Murugan gave a complaint dated 11.02.2016 to the first respondent police, based on which, a petition enquiry was being conducted in C.S.R. No.64 of 2016. At that juncture, Murugan filed Cr1.O.P.No.9347 of 2016 before this Court for a direction to the respondent police to register an FIR based on his complaint. On 06.06.2016, this Court closed the said Criminal Original Petition as under:

"3. Learned Additional Public Prosecutor submits that petition enquiry is pending in CSR No.64 of 2016 before the second respondent and that the petitioner is not cooperating with the enquiry.

4. Hence, the petitioner is directed to cooperate with the enquiry and the second respondent police is directed to conduct enquiry and during the course of enquiry, if any bailable offence is made out, a regular case shall be registered, following the decision laid down by the Hon'ble Supreme Court in Lalita Kumari vs. Government of Uttar Pradesh and others reported in (2014) 2 SCC 1, otherwise, the petition may be closed under intimation to the petitioner."

3 Pursuant to the aforesaid order, it appears that the first respondent police have registered a regular case in Cr. No.458 of 2016 under Sections 447 and 427, IPC, against Kumar (A1), Babu (A2) and one lorry driver, challenging which, Kumar is before this Court.

4 The learned counsel for Kumar submitted that the de facto complainant Murugan is administering VDS Matriculation School in Vellore and that Subhashini, Kumar's wife started a nursery school near VDS Matriculation School, on account of which, there were several disputes between two parties; in order to wreak vengeance, Murugan, the de facto complainant, has given a false complaint, as if Kumar and others had damaged the windshield of the bus belonging to VDS Matriculation School.

5 The learned counsel for the petitioner produced a copy of the certificate that is said to have been given by the District Inspector of Physical Education, Vellore, certifying that Kumar was in the school on 05.02.2016 from 8. a.m. to 6.30 p.m.

6 In the considered opinion of this Court, the defence of alibi cannot be gone into by this Court in a petition under Section 482, Cr.P.C.. सत्यमेव जयते

7 Under such circumstances, this Criminal Original Petition is closed with a direction to the Deputy Superintendent of Police, Vellore, to monitor the investigation in Bagayam P.S. Cr. No.458 of 2016 and if it is found that the allegations therein are false, it is needless to state that the prosecution

against the petitioner shall be dropped. Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Inspector of Police
Bagayam Police Station
Vellore Taluk and District
- 2 The Deputy Superintendent of Police
Vellore
- 3 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.T.Jeevanantham, Advocate, S.R.No.71743

CrI.O.P. No.26048 of 2016

RV(CO)
MA(29/12/2016)

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