

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS
Crl.O.P. No.7429 of 2016

K.Sadasivam

.. Petitioner/accused

Vs.

The State Rep by
Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Namakkal

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Special C.C.No. 23 of 2014 on the file of the Chief Judicial Magistrate, Namakkal in Crime No.4 of 2013 and quash the same.

For Petitioner: Mr. A.Rajakumar

For Respondent: Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

The sole accused in the Special C.C.No.23 of 2014 on the file of the learned Special Judge/Chief Judicial Magistrate under PC Act, Namakkal came forward with this petition under Section 482 Cr.P.C to quash the entire criminal proceedings instituted against him in FIR in Cr.No.4 of 2013 and consequently, the Special C.C.No.23 of 2014.

2. During the relevant time, the petitioner was VAO, Pottireddipatty in Namakkal District. Kathirvel, the defacto complainant's brother-in-law met S.I. of Police, Erumapatty in connection with his passport verification. The S.I directed him to come with all the necessary certificates including his nativity certificate. In this connection, it is alleged that when on 18.6.2013 at about 13 hours, when Defacto complainant and his brother-in-law called on the accused, he is alleged to have demanded Rs.2,500/- as illegal gratification to discharge his public duty, namely, issuing of nativity certificate.

<https://hcservices.ecourts.gov.in/hcservices/>

3. In this case, P.W.1/RDO, Namakkal deposed before the learned Special Judge as to his sanctioning of the prosecution.

Now, the case is coming up for examination of the next set of prosecution witnesses on 22.4.2016.

4. At this juncture, the accused wants to quash the entire criminal proceedings under Section 482 Cr.P.C on the ground that to obtain passport certificate, there is no necessity to produce nativity certificate. In such circumstances, this prosecution is a farce. Further, the defacto complainant actuated by malice, ulterior motive that since the accused/VAO appears to be a trouble maker for defacto complainant's family with regard to their running of a brick-kiln, the VAO has been implicated in this case.

5. The inherent jurisdiction of this Court under Section 482 Cr.P.C although is vast and wide however, it has to be exercised sparingly only when the situation demands the interference of this Court. The jurisdiction under Section 482 Cr.P.C can be invoked by this Court in order 'to do justice' and also 'to undo injustice'. This principle has been expanded to say to prevent abuse of process of any court and also to secure ends of justice. These are the basic principles upon which the inherent jurisdiction has to be exercised by this Court. The parameters and the guidelines are available with regard to the exercise of inherent jurisdiction in BHAJANLAL VS STATE OF HARYANA [1992 AIR 604 = 1992 SCC (1) 335] more particularly in paragraph 102, the Hon'ble Apex Court has laid down the principles but they are illustrative in nature and not exhaustive.

6. While exercising its jurisdiction under Section 482 Cr.P.C, this Court cannot do trial court work. This Court cannot be a substitute for the trial court. Shifting of evidence, appreciation of evidence, analysis of evidence, weightage of evidence are matters ought to be considered by the trial Court and are ought not to be considered by this Court in its jurisdiction under Section 482 Cr.P.C.

7. Of course, in this case, the trial has started. One witness has been examined. Even though invoking of the trial court's jurisdiction under Section 239 and 240 Cr.P.C may be over, but not invoking the inherent jurisdiction of this Court under Section 482 Cr.P.C, because at any stage of the criminal case, if this Court is satisfied that injustice is being perpetrated or there is abuse of process of the court, then asking the accused to undergo the ordeal of trial and seek relief at the fag end of the trial then, it will be perpetrating or sponsoring injustice (see S.NALINI VS STATE [2013(3) MWN (Cr.) 80])

8. In this case, the abuse of process of the court sought for upon certain grounds which are matters to be considered by the trial Court on appreciation of evidence. At this stage, on these grounds, this prosecution cannot be stifled. However, the accused is entitled to defend himself not merely but effectively. It is his constitutional right. (see Article 21 and 22, Constitution of India).

9. In view of the foregoing, this CrI.OP is dismissed. The petitioner is at liberty to raise the very same grounds raised in this CrI.O.P as a defence plea before the trial Court at the appropriate stage of the case. And, the trial Court will consider the same in accordance with law.

10. With the above liberty, this criminal original petition is disposed of

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge under PC Act/
Chief Judicial Magistrate
Namakkal
2. The Additional Public Prosecutor,
High Court, Madras.
3. Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Namakkal.

+1 cc to Mr.A.Rajakumar, Advocate, sr.22053
+1 cc to Public Prosecutor, sr.22459

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