



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P. (MD) No.361 of 2016

and

CMP(MD)Nos.189 and 190 of 2016

Ram Prasad

: Petitioners/Sole Accused

-Vs-

1.The State of Tamilnadu

Rep. By its Sub Inspector of Police,
Tenkasi Police Station,
Tenkasi,
Tirunelveli District.
(Cr.o.309/2015)

: 1st respondent/Complainant

2.T.Jeyasingh Samuel

:2nd respondent/De-facto complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records from the file of the Judicial Magistrate, Tenkasi, Tirunelveli District, in C.C.No.379 of 2015 and quash the same, as it has no prima face case against the petitioner and pass such further orders.

For Petitioner

: Mr.R.Srinivasan

For 1st Respondent

: Mr.K.Anbarasan

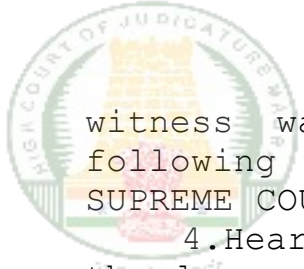
Govt. Advocate (Crl.Side)

O R D E R

This petition is filed to call for the records in C.C.No.379 of 2015 from the file of the Judicial Magistrate, Tenkasi and quash the same.

2.The case of the prosecution is that on 28.06.2015 at about 4.30 pm, when the de-facto complainant along with his friends were talking in front of Kasi Viswanathar Temple, the accused shouted in a filthy language and also threatened him with dire consequences.

3.Mr.R.Srinivasan, learned counsel appearing for the petitioner would submit that the petitioner belongs to a decent educated family. He is a brilliant student and now he is pursuing IAS examination in Vajiram & Ravi Institute, New Delhi. He would further submit that when he came to his native place, a quarrel arose between the petitioner and the de-facto complainant with the regard to parking of the vehicle. The de-facto complainant, who is an influential person, has lodged a false complaint against the petitioner. Though, the occurrence said to have taken place on 28.06.2015, the de-facto complainant chose to give the complaint after a lapse of 7 days I.e., on 03.07.2015. No independent



witness was examined and the case is liable to be quashed following the principles laid down in **Bhajan Lal's case** [AIR 1992 SUPREME COURT 604].

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the 1st respondent and perused the records.

5. It is the specific case of the petitioner that he is preparing for IAS examination in New Delhi and when he had been in his native place, due to quarrel a false case has been registered against him.

6. It is not in dispute that the complaint was given, after lapse of seven days of the alleged occurrence and no independent witness was examined. The Hon'ble Apex court in the decision reported in **AIR 1992 SUPREME COURT 604 [State of Haryana vs. Bhajan Lal]** has held that if the complaint is lodged with a *mala fide intention* and in a vindictive manner, the case is liable to be quashed, which is extracted below:-

"108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the accused;

2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the



Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

3. Where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

4. Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

7. Keeping in mind the principles laid down in the above decision and the facts of this case, this petition is allowed and the charge sheet filed in C.C.No.379 of 2015 on the file of the Judicial Magistrate, Tenkasi, is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/



To,

1. The Sub Inspector of Police,
Tenkasi Police Station,
Tenkasi, Tirunelveli District.

2. The Judicial Magistrate, Tenkasi.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SRINIVASAN, Advocate, SR No.59939

Cr1.O.P. (MD) No.361 of 2016
06.10.2016

er

SH/DB:07.11.2016:4P/5C