

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

CRL.O.P.No.2945 of 2011

and

M.P.Nos.1 and 2 of 2011

1.Srinivasan
2.Kutty
3.Munusamy
4.Panneerselvam
5.Krishnakumar
6.Meganathan
7.Baskar
8.Ashokan
9.Rajanathan
10.Ramesh
11.Srinivasan
12.Akbar
13.Senthilkumar
14.Sundaram
15.Janarthanam
16.Ayyadurai
17.Ignatius Thomas

... Petitioners

Vs

State rep. by
The Inspector of Police,
M7, Manali New Town Police Station,
Manali New Town,
Ponneri Taluk,
Thiruvallur District.

.. Respondent

PRAYER: Petition under Section 482 of the Code of Criminal Procedure to call for the records in relating to the charge sheet filed in P.R.C.No.1 of 2010 on the file of the learned Judicial Magistrate No.II, Ponneri, Thiruvallur District and to quash the same.

For Petitioners : Mr.T.P.Sekar
For Respondent : Mr.B.Ramesh Babu
Government Advocate
(Criminal Side)

ORDER

The petitioners have filed this petition to call for the records relating to the charge sheet filed in P.R.C.No.1 of 2010 on the file of the learned Judicial Magistrate No.II, Ponneri.

2. The case of the prosecution is that on 12.9.2008 at 10.30 A.M., the petitioners, who were arrayed as accused 1 to 17, illegally assembled near Milk booth at the junction of Manali New Town and Ponneri High Road in order to cause nuisance to the public and thereby committed an offence under Section 341, 147 read with 149 IPC. In the course of same transaction, when the respondent police warned the accused persons and asked them to disburse from the place, the petitioners obstructed the respondent police from discharging their duties. They have also damaged the vehicle bearing registration No.TN-01 G 2965 belonging to the Government. The petitioners have also damaged the vehicle bearing registration No.TN-22 G 0199, thereby committed the offence under Section 353, 506(i) IPC and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 (in short "TNPPDL Act")

3. The respondent police registered the case in Crime No.355 of 2008 against the petitioners and filed the charge sheet before the Judicial Magistrate No.II, Ponneri and the Judicial Magistrate No.II, Ponneri taken the charge sheet as P.R.C.No.1 of 2010 on its file. After receipt of summons in P.R.C.No.1 of 2010, the petitioners have approached this Court to call for the records relating to the charge sheet filed in P.R.C.No.1 of 2010.

4. I heard Mr.T.P.Sekar, learned counsel for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the respondent and also perused the materials available on record.

5. According to the petitioners, they are permanent residents of Manali New Town and neighbouring villages and they were hailing from middle and poor families. On 12.9.2008, due to poor maintenance of road and heavy traffic of trailer movement, there was a fatal accident near the Milk booth situated at the junction of Manali New Town and Ponneri Main Road, as a result, more than thousand general public were gathered and subsequently, all of them disbursed from that place.

6. The case of the petitioners is that on 12.9.2008 when they were waiting for their buses at Manali New Town Bus stand to attend their respective jobs, the police personnels of respondent came and picked up all the petitioners and detained them in the respondent police station and thereafter, registered the case against them under Sections 143, 147, 341, 353 and 506 (i) IPC and Sections 2 and 3 of TNPPDL Act in Crime No.355 of

2008. Except petitioners 15, 16 and 17, others were produced before the Judicial Magistrate and subsequently, all of them were enlarged on bail.

7. On a perusal of the certified copy of FIR produced before this Court, it is seen that nobody was complained the occurrence before the respondent police. On the other hand, it has been stated in the FIR that on 12.9.2008 at 10.30 A.M., on an information received the Inspector of Police rushed near the Milk booth situated at the junction of Manali New Nagar and Ponneri High Road, where the petitioners and others were picketing. At that time the Inspector of Police advised them to go and report before the higher officials qua fatal accident and requested them for disbursal. Despite the request, all of them have caused public nuisance and also prevented the surrounding peoples from doing their day-to-day affairs.

8. It is also stated in the FIR that in the course of same transaction, the petitioners and others have damaged the back side danger light of the police vehicle bearing registration No.TN-01 G 2965 and indulged in rioting and also threatened the general public by saying they will kill them. The petitioners have also damaged the vehicle bearing registration No.TN-22 G 0199 belonging to the Inspector of Police and damaged the side mirror. The Inspector of Police arrested accused Nos.1 to 14 at 12.30 noon and brought to the police station at 1.00 P.M. and registered the case in Crime No.355 of 2008 under Sections 143, 147, 341, 353, 506(I) IPC and Section 2 and 3 of TNPPDL Act.

9. Though in the FIR, it has been stated that on an information, the Inspector of Police rushed to the spot, there is no whisper from whom the Inspector of Police of the respondent police station has received the information. The case of the respondent is that in order to cause public nuisance, the petitioners were illegally assembled in the occurrence place and thereby caused not only public nuisance, but also prevented free movement of vehicles.

10. Nothing has been produced by the respondent police to show for what purpose, the petitioners were said to have been assembled near the Milk booth situated at the junction of Manali New Town-Ponneri High Road.

11. According to the petitioners, when they were waiting for their buses to go to their work, the personnel of respondent police came and picked up them. In the complaint, the Inspector of Police stated that the petitioners and others were picketing at the occurrence place. When the Inspector of Police stated that apart from petitioners others were also involved in the alleged crime, the respondent police has failed to name the others in the FIR and the respondent has also not stated

anything that later, they came to know the name of other persons. Therefore, there is every possibility of suspicion whether really, the petitioners have involved in the alleged offence.

12. Though the respondent stated that in the course of same transaction, the petitioners have damaged two Government vehicles, nothing on record to show that really the petitioners have caused the damage to the Government vehicles and the extent of damage said to have been caused by the petitioners etc. It is the say of the petitioners that when they were waiting in the Bus stand, the respondent police picked up them and implicated in the case, it is the duty of the respondent prima facie to show that the petitioners were really agitating on the date of occurrence and involved in the crime.

13. In the absence of any prima facie proof to show that the petitioners have unlawfully assembled on the date of occurrence near the Milk booth situated at the junction of Manali New Town-Ponneri High Road, it is to be presumed that the respondent police has picked up the petitioners, who were standing near the bus stand and implicated in this case.

14. It is settled law that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is competent to the High Court exercising its inherent jurisdiction under Section 482 of Cr.P.C. to quash the order passed by the Magistrate taking cognizance of the offence.

15. In the case on hand the allegations set out in the complaint do not constitute any offence against the petitioners. Since complaint is so bereft even the basic facts which are absolutely necessary, quashing of the criminal proceedings is warranted.

16. The learned counsel for the petitioners submitted that the police officer, who registered the FIR himself has investigated the case and filed the charge sheet. Therefore, the entire criminal prosecution is vitiated.

17. The officer who registered the FIR had himself investigated the case and filed charge sheet was illegal and on this ground also the petition is liable to be allowed, as the officer who lodged the complaint would have been naturally interested in securing the evidence to support his version and it cannot be stated that his approach was unbiased. As stated supra, since the investigation was conducted by the same Officer, who filed the special report and who registered the FIR, this Court finds that the police officer, who registered the case has not empowered to investigate the matter and file a charge sheet. Therefore, this Court finds that continuing the

criminal proceedings based upon the charge sheet is nothing but abuse of process of Court and thus, the charge sheet filed in P.R.C.No.1 of 2010 is liable to be quashed.

18. In the result, the Criminal Original Petition is allowed and the proceedings in P.R.C.No.1 of 2010 on the file of the learned Judicial Magistrate No.II, Ponneri, Thiruvallur District, is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vs

To

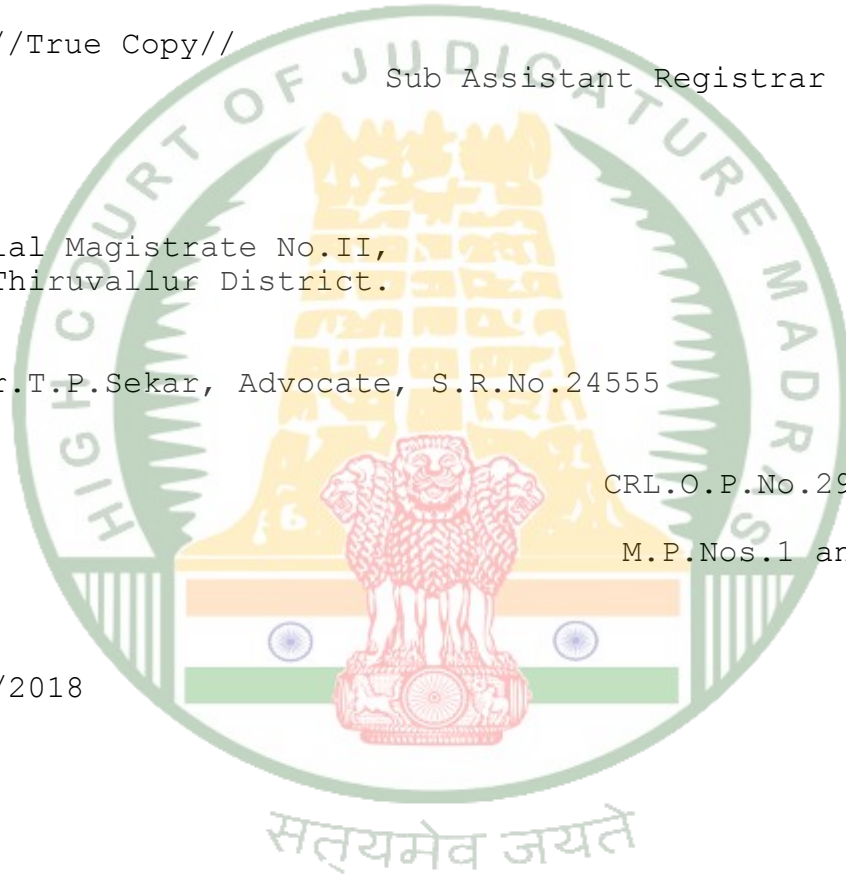
The Judicial Magistrate No.II,
Ponneri, Thiruvallur District.

+1cc to Mr.T.P.Sekar, Advocate, S.R.No.24555

CRL.O.P.No.2945 of 2011
and
M.P.Nos.1 and 2 of 2011

MG (CO)

rrs 05/10/2018



WEB COPY