

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2017

CORAM :

THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.OP.No.27283 of 2010

and

M.P.No.1 of 2010

Dr.K.V.Jayaprakash

... Petitioner

Vs.

1. R.Selvarasu

2. The Inspector of Police,
District Crime Branch Police Station,
Namakkal.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. Praying to call for the records in respect of the order dated 20.10.2010 passed in C.M.P.No.4432 of 2010 in S.T.C.No.11 of 2009 on the file of Judicial Magistrate I, Namakkal set aside the same.

For Petitioner : Mr.R.Nalliyappan

For R1 : Mr.G.K.Ilanthiraiyan

For R2 : Mr.B.Ramesh Babu
Government Advocate[Crl.Side]

ORDER

Heard the learned counsel for both parties.

2. The petitioner is the accused in S.T.C.No.11 of 2009 before the Judicial Magistrate-I, Namakkal. The first respondent is the complainant. According to him, the cheque in question and involved in S.T.C.No.11 of 2009 is forged and this is very vital and critical limb of his case and the petitioner is keen that this offence committed by the first respondent does not go unpunished.

3. After investigating into the same, the investigating agency referred the matter as "mistake of fact" and laid its final report before the concerned Magistrate.

4. The petitioner would now lodge his protest to this final report and acting on the same after due enquiry, the Magistrate concerned directed the investigating agency under

Sec.156(3) Cr.P.C. to investigate and file its report again. Accordingly, the matter was again investigated, but yet another time final report was filed as "mistake of fact". As aforesaid, when FIR in Crime No.9/2010 was under investigation, the petitioner has moved the Judicial Magistrate No.I, Namakkal with a petition under Sec.210 Cr.P.C., to stay further proceedings in STC.No.11/2009. That was dismissed.

5. The complaint that the petitioner had preferred against the first respondent has already been investigated twice by the investigating agency and referred to as "mistake of fact". This final report has already been accepted by the learned Magistrate and this has not been challenged, nor the petitioner has moved this Court, seeking any direction to the investigating agency to investigate the matter either by the same investigating agency or by any other.

6. However, the option available to the petitioner is to utilise this as a defence during the trial in S.T.C.No.11 of 2009 is not foreclosed and he is free to press that into service in the said case. For the present, he only seeks to stay in S.T.C.No.11 of 2009 on the pretext of the pending F.I.R., but this F.I.R., no more exists.

7. Under such circumstances, I find no merit in this Criminal Original Petition and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kmi

To

1. The Inspector of Police,
District Crime Branch Police Station,
Namakkal.
2. The Judicial Magistrate Court No.I,
Namakkal.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Sai, Bharath & Ilan, Advocate, S.R.No.12512

Cr1.OP.No.27283 of 2010