



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.15509 of 2017 and
CRL.M.P.(MD)No.10327 of 2017

Krishtophar : Petitioner/Sole Accused

-Vs-

The State represented by
The Sub-Inspector of Police,
Srirangam Police Station,
Srirangam

: Respondent/Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned FIR in Crime No.833 of 2017 on the file of the respondent and quash the same.

For Petitioner : Mr.K.Prabhakaran

For Respondent : Mr.R.Ramar

Additional Public Prosecutor

O R D E R

The Criminal Original Petition is filed to quash the impugned FIR in Crime No.833 of 2017 on the file of the respondent.

2.Heard Mr.K.Prabhakaran, learned Counsel for the petitioner and Mr.A.Ramar, learned Additional Public Prosecutor, who takes notice for the respondent.

3.Based on the information received by the respondent police, a case was registered by the Sub Inspector of Police, Srirenangam Police Station, as against the petitioner in Crime No.833 of 2017 for the alleged offences punishable under Section 294(b) IPC and Section 7 (1) (a) of Criminal Law Amendment Act, 2005.

4.The learned Counsel for the petitioner submitted that the respondent has registered a false case as against the petitioner with an intention to harass the petitioner and that the complaint would not make a *prima facie* case as against the petitioner. It is further contended that the allegations found in the complaint are so absurd and improbable and that therefore no prudent person can justify the registration of the complaint. The petitioner further stated that no offence, as alleged, was committed under Section 7(1) (a) of Criminal Law Amendment Act, 2005 and that the registration of

the complaint is nothing but abuse of process of law.

5. Except denying the statement in the complaint and doubting the probability of the case against the petitioner, the petitioner has not submitted any other legal grounds to quash the proceedings on the question of *mala fide*. The petitioner submitted a representation dated 17.10.2017, before the Human Rights Commission, alleging that a false case was foisted against him on 05.10.2017, pursuant to the incident occurred on 27.09.2017. This Court is not in a position to accept the stand taken by the petitioner, as no complaint or representation was given by the petitioner prior to the registration of the First Information Report, on 05.10.2017. Even if he has got some material to prove his innocence and to show that the complaint is nothing but lodged with a *mala fide* intention, it is open to the petitioner to raise all his submissions either at the time of trial or at the time of investigation. Merely on the basis of factual assertions of the petitioner, with regard to the nature of dispute and the allegation in the complaint, this Court cannot entertain the petition to quash the criminal complaint.

6. It is further stated that Section 7(1)(a) of Criminal Law Amendment Act, 2005, is not attracted and that the complaint, which is registered under Section 7(1)(a) of Criminal Law Amendment Act, 2005 is liable to be quashed. It is open to the petitioner to raise this legal issue during the investigation. However, it cannot be said that the offence under 294(b) IPC is not made out.

7. In result, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Sub-Inspector of Police,
Srirangam Police Station,
Srirangam
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.K.PRABAKARAN, ADVOCATE IN SR No. 87385

CMR

TE/SKN-RSK/SAR-3 : 23/11/2017 : 2P/4C