



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD) No.17116 of 2017

A.Gulam Kadhar

... Petitioner/Sole Accused

-Vs-

1.The Inspector of Police,
Central Police Station,
Thoothukudi,
Thoothukudi District.

... 1st Respondent / Complainant

2.Muhaideen

...2nd Respondent / Defacto
Complainant

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in Crime No.392 of 2011 on the file of the Inspector of Police, Central Police Station, Thoothukudi dated 15.08.2011 and quash the same.

For Petitioner : Mr.B.N.Raja Mohammed

For R1 : Mr.K.S.Duraipandian
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed for quashing the First Information Report in Crime No.392 of 2011 on the file of Inspector of Police, Central Police Station, Thoothukudi, dated 15.08.2011.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

3.It is stated that the petitioner is the sole accused in the complaint, lodged by the second respondent for the alleged offences



punishable under Sections 294(b), 341, 307 and 506(ii) of IPC. Reading of the complaint clearly discloses that the de-facto complainant was brutally attacked by the petitioner by using a sword like knife and that it is an attempt made to the life of the de-facto complainant. The present petition is filed only on the ground that the petitioner's fundamental right under Article 21 of the Constitution is affected in view of the pendency of the criminal complaint for a long time.

4.It is further stated that though no time limit for the investigation is prescribed, it should be completed or expected to be over within a reasonable time and that a long delay, which is likely to cause immense hardship to the petitioner, cannot be permitted. The learned counsel for the petitioner submitted that the delay on the part of the first respondent, acts as stumbling block for the petitioner's further progress in life, as pendency of a criminal complaint for more than six years had put him under loss on various counts.

5.It is further stated that the pendency of the case casts a stigma upon the petitioner and he has lost his fundamental right to the freedom of movement as guaranteed under Article 19(1)(d) of the Constitution of India.

6.The learned Additional Public Prosecutor, on instructions, submitted that the charge sheet has already been filed on 13.08.2012 and that it is yet to be taken on file. This Court is not in a position to ascertain as to the reason why the charge sheet was not yet taken on file by the concerned Judicial Magistrate. However it is permissible in law for the Judicial Magistrate concern to accept the charge sheet even if the charge sheet is filed with a delay. If the charge sheet is taken on file by the learned Judicial Magistrate No.II, Thoothukudi, the court shall proceed further. For any reason, if the charge sheet itself was not taken on file, the grievance of petitioner is also well founded. However, that cannot be a ground to quash the complaint itself. The matter is some how pending before the Judicial Magistrate No.II, Thoothukudi. Hence this court is not inclined to entertain this petition.

8.Having regard to the grievances expressed by the petitioner before this Court, this Court is inclined to direct the first respondent to see that the charge sheet is taken on file by the learned Judicial Magistrate No.II, Thoothukudi, within a period of three weeks from the date of receipt of a copy of this order. It is open to the petitioner to raise all his grounds before the lower Court.

9.Accordingly, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/



To
WEB COPY

- 1.The Judicial Magistrate No.II,
Thoothukudi.
- 2.The Inspector of Police,
Central Police Station,
Thoothukudi,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pnn/cmr

RL/4C/3P/KK/SAR2/17/1/2018

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