



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.3228 of 2017

and

Crl.M.P.(MD) Nos.2455 and 2456 of 2017

Saminathan

: Petitioner

-Vs-

1. State Represented by
The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Thirupathur Sub Division,
Sivagangai District.

2. State Represented by
The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
(Crime No.152 of 2014)

3. M.Chinnaiah

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records of charge sheet in Spl.S.C.No.2 of 2016 on the file of the learned Special Judge for PCR Cases, Sivagangai and quash the same against the petitioner alone as illegal.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents 1 & 2 : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)**O R D E R**

On the complaint lodged by the third respondent, a case in Crime No.152 of 2014 was registered and after completing the investigation, a final report in Spl.S.C.No.2 of 2016 was filed before the learned Special Judge for PCR Cases, Sivagangai, against the petitioner and six others, for offences under Sections 147, 427 and 294(b) of the Indian Penal Code r/w Section 3(1)(r)(s) of SC/ST (POA) Amendment Ordinance Act, 2014, challenging which, the petitioner is before this Court.



2. Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner and the learned Government Advocate (Criminal side) appearing for the first and second respondents.

3. Today, Mr.K.Veluchamy, Special Sub-Inspector of Police, Kandavarayanpatti Police Station, is present in Court.

4. Mr.S.M.A.Jinnah, learned counsel for the petitioner contended that the entire prosecution has been fabricated by the third respondent, inasmuch as no such incident had ever taken place and all the villagers had certain grievance against the third respondent for his non-performance as Village Panchayat President. In order to wreak vengeance, the third respondent has engineered the present prosecution. In support of this contention, Mr.S.M.A.Jinnah, learned counsel for the petitioner relied upon a memorial dated 26.11.2013 that has been signed by the villagers.

5. The learned Government Advocate (Criminal side) refuted the said contention.

6. This Court gave its anxious consideration to the rival submissions.

7. It is alleged by the third respondent that he belongs to Dalit and that the villagers were collecting money for Anthanatchiamman Temple Kumbabhishegam, for which, the third respondent had donated Rs.11,101/- and his name was inscribed in the stone plaque as one of the donors. But the accused, who belongs to upper caste, has deliberately removed his name and threatened him and hence, this prosecution.

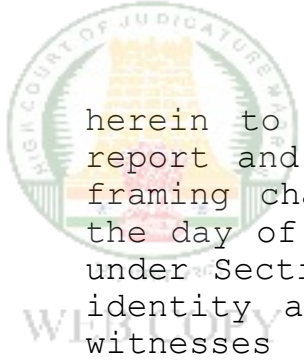
8. Since there are *prima facie* materials in the charge sheet, the same cannot be quashed, as disputed questions of fact cannot be gone into in a quash petition under Section 482 of the Code of Criminal Procedure.

9. As regards the contention of Mr.S.M.A.Jinnah, learned counsel for the petitioner that all the villagers gave representations dated 26.11.2013 and 12.12.2014, this Court is of the view that the same can be pressed into service before the Trial Court in defence of the accused and not in a quash petition.

10. In the result, this Criminal Original petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court. Consequently, the connected miscellaneous petitions are closed.

11. At this juncture, the learned counsel appearing for the petitioner submitted that the presence of the petitioner herein before the Trial Court may be dispensed with.

12. Accepting the submission, this Court directs the petitioner



herein to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if he files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined in chief, as held by the Hon'ble Supreme Court in **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he absconds, a fresh Information Report can be registered against him under Section 229-A of the Indian Penal Code. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Special Judge for PCR Cases,
Sivagangai.
 2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Thirupathur Sub Division,
Sivagangai District.
 3. The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
Crime No.152 of 2014
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- + 1 CC TO Mr.S.M.A.JINNAH, ADVOCATE IN SR No. 17886

SML

TE/SV-MMS : 10/04/2017 : 3P/6C

Order made in
CRL.O.P.(MD)No.3228 of 2017
Dated: 24.03.2017