



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.5093 of 2017

and

CrI.M.P.(MD) Nos.3602 & 3603 of 2017

Ganesan @ Captain Ganesan

... Petitioner/A2

-vs-

1. The Inspector of Police
Palayamkottai Police Station
Tirunelveli District

... R1/Complainant

2. Johnsirani

... R2/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings in S.C.No.236 of 2017 on the file of the Chief Judicial Magistrate Court, Tirunelveli against Crime No.1114 of 2013 pending on the file of the 1st respondent police and quash the same as illegal insofar as the petitioner/A2 is concerned.

For petitioner	: Mr.N.Madhava Govindan
For R1	: Mr.K.Anbarasan
	Govt. Advocate (CrI.Side)

O R D E R

This petition has been filed to call for the records relating to the proceedings in S.C.No.236 of 2017 on the file of the Chief Judicial Magistrate Court, Tirunelveli against Crime No.1114 of 2013 pending on the file of the 1st respondent police and quash the same as illegal insofar as the petitioner/A2 is concerned.

2. On the complaint lodged by the 2nd respondent, the 1st respondent registered a case in Crime No.1114 of 2013 and after completing the investigation, filed a prosecution in S.C.No.236 of 2017, which is pending on the file of learned Chief Judicial Magistrate, Tirunelveli for offences under Sections 294(b), 323, 324, 326 and 307 IPC against Pandaram, Ganesan @ Captain Ganesan, S/O.Subbu and Mathivanan, challenging which, Ganesan @ Captain Ganesan is before this Court.



3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

4. Learned counsel for the petitioner submitted that there is another person by name Ganesan in the same village, who normally involves in anti social activities and it was he, who was to be prosecuted and not the present petitioner.

5. Per contra, learned Government Advocate (Crl.Side) refuted the contention.

6. This Court perused the FIR in Crime No.1114 of 2013, wherein the name of Captain Ganesan figures. Even if it is the case of the petitioner that he is not Captain Ganesan, it is for him to demonstrate this fact during evidence before the Trial Court. This Court under Section 482 Cr.P.C. cannot give a finding that a wrong person is being prosecuted before the Trial Court.

7. Under such circumstances, this is not a fit case to quash the proceedings in S.C.No.236 of 2017 pending on the file of the learned Chief Judicial Magistrate, Tirunelveli. Hence, this petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

- 1 The Chief Judicial Magistrate,
Tirunelveli.
2. The Inspector of Police
Palayamkottai Police Station
Tirunelveli District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/s.Madhava Govindan, Advocate in SR.No.54212

ar

CSL/BS/SAR-IV/10.05.2017 :2P/5C