



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM

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

Crl.O.P.(MD) No.5486 of 2017

and Crl.M.P.Nos.3889 and 3890 of 2017

WEB COPY

Leon Keson

... Petitioner/ Accused No.1

-vs-

V.Santhakumaran Nair
Sub Inspector of Police
RPF
Nagercoil Junction
Kanyakumari District

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to quash the private complaint in C.C.no.165 of 2011 on the file of the Judicial Magistrate NO.I, Nagercoil, as against this petitioner.

For Petitioner : Mr.R.Manimaran

O R D E R

On the complaint lodged by the Sub Inspector of Police, Railway Protection Force, Nagercoil, before the Judicial Magistrate, No.I, Nagercoil, against six accused for offences under Sections 147 and 174(A) and 145(B) of the Railways Act, 1989, the Magistrate has issued summons to the petitioner, who has been arrayed as A1, Challenging which, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submitted that there was a public agitation against the Railway authorities on 20.01.2011 and just because the petitioner was the Parish Priest, he has been falsely implicated in the private complaint filed by the Sub Inspector of Police.

4. This Court gave its anxious consideration to the submissions of the learned counsel for the petitioner.

5. For prosecuting a person under the Railways Act, 1989, a private complaint has been filed and the procedure before the trial Court is under Chapter XIX - B (cases instituted otherwise than on police report). In other words, the prosecution must examine the witnesses and only thereafter charges can be framed.



Therefore, there is a remedy available to the petitioner under Section 245 of the Code of Criminal Procedure before the trial Court. Under such circumstances, this is not a fit case to entertain this quash application at this juncture. However, taking into consideration the fact that the petitioner is a Parish Priest, he is directed to engage an advocate, who shall cross examine the witnesses, on the day, they are examined in chief. The petitioner shall file an affidavit that he will not dispute his identity. The petitioner shall also appear before the trial Court for framing charges, if any, under Section 246 Cr.P.C. The presence of the petitioner before the trial Court till the proceedings under Section 246 Cr.P.C is dispensed with. Accordingly, this criminal original petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To:

1. The Judicial Magistrate NO.I, Nagercoil.
2. The Chief Judicial Magistrate, Kanyakumari at Nagercoil.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RR

PSM/JC/SAR2/12.06.2017/2P/4C

Cr1.O.P. (MD) No. 5486 of 2017
and Cr1.M.P.Nos. 3889 and 3890 of 2017
05.06.2017