



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2017

CORAM

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P.(MD) No.8353 of 2017

Sathya Chithiraikumar
Known

... Petitioner/Accused Rand not

-Vs-

1.State rep. by

The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District,
In Cr.No.276 of 2016.

... 1st Respondent/Complainant

2.Muthu

... 2nd Respondent/Defacto
Complainant

3.S.Suganthi

... 3rd Respondent

(R3 impleaded as per order of
this Court made in Crl.MP.(MD)
No.5959 of 2017 in Crl.OP(MD)
No.8353 of 2017 dated 11.07.2017)

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the impugned F.I.R. in Crime No.276 of 2016 dated 11.10.2016 pending on the file of the first respondent police in so far as the petitioner's concern and quash the same as illegal.

For Petitioner : Mr.M.Meenal Pandian

For 1st Respondent : Mr.K.Anbarasan,
Government Advocate (Crl.side)

For 2nd Respondent : Mr.B.Chandran

For 3rd Respondent : Mr.S.Palanivelayutham

O R D E R

This Criminal Original petition is filed to quash the F.I.R. in Crime No.276 of 2016 dated 11.10.2016, pending on the file of the first respondent police.

<https://hcservices.courts.gov.in/hcservices/> learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the first respondent and the learned counsels appearing for



respondents 2 and 3.

3. The petitioner submitted that the case was registered in Crime No.276 of 2016 on the information furnished by the defacto complainant, who has subsequently stated that the complaint was not given by him. The petitioner has also stated that he is innocent and no offence was committed by the petitioner. The defacto complainant also has subsequently entered into a compromise with the petitioner and therefore it is stated that the F.I.R. in Crime No.276 of 2016 has to be quashed.

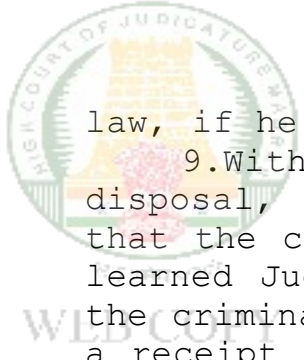
4. The victim, namely, S.Suganthi has filed a petition to implead her and she is also impleaded. The learned counsel appearing for the third respondent submitted that the third respondent is the victim and that therefore, she is also entitled to be heard. It is submitted further that the third respondent is not bound by the compromise. The defacto complainant stated to have given a complaint on the basis of the statement of watchman and now he says that no complaint was given by him.

5. The petitioner relied upon certain materials to depict the character of the third respondent and to show *prima facie*, the allegations are not true. The submission of learned counsel on the merits of the case has some substance. However, this is not relevant in the present context and it is for the respondent police and the trial Court to consider the same at the time of investigation or during trial of the criminal case.

6. The learned Government Advocate (Criminal side) on instructions submitted that the charge sheet has already been filed on 07.07.2017. However, it is yet to be taken on file. The petitioner has also stated that the charge sheet has been filed only after filing this petition to quash the F.I.R. It is further submitted by the learned counsel for the petitioner that the case has been foisted against that the petitioner with ulterior motive and the issue is politicized by involving the petitioner unnecessarily by the respondent police at the instigation of third respondent.

7. The simple question arose for consideration before this Court is whether the criminal case in Crime No.276 of 2016, pending on the file of the first respondent can be quashed at this stage on the basis of the compromise memo signed by the parties, namely, the petitioner/accused and the second respondent who is only an informant of the Crime.

8. Having regard to the fact that the victim is not a party to the compromise memo, it is not possible for this Court to quash the F.I.R., especially when the charge sheet itself is stated to have been filed in this case. Hence, this Criminal Original Petition is dismissed as not maintainable, leaving it open to the petitioner to challenge the charge sheet in the manner known to



law, if he is so advised.

9. With regard to the request of the petitioner for early disposal, this Court directs the first respondent police to see that the charge sheet is taken up on file on an earlier date. The learned Judicial Magistrate, Nanguneri is directed to dispose of the criminal case within a period of three months from the date of a receipt of a copy of this order. In case, the respondent police cause any undue delay in the matter, it is open to the petitioner to approach this Court for appropriate direction.

Sd/-

Assistant Registrar(RTI)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1. The Judicial Magistrate, Nanguneri.

2. The Inspector of Police,
Thisayanvilai Police Station,
Tirunelveli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.PALANI VELAYUTHAM, Advocate SR.No.66246

vsg

MAS/KP/SAR2:01.08.2017:3P-5C

Cr1.O.P.(MD) No.8353 of 2017
18.07.2017