

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.No.5521 of 2018
and
Crl.M.P.Nos.2701 and 2702 of 2018

V.Biju : Petitioner / Accused

Vs.

The State
Represented by its
Assistant Sub Inspector of Police,
RPF/Chennai Beach. : Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for records of the proceedings in E.R.C.No.6239 of 2016 on the file of the Special Metropolitan Magistrate for Railways at Egmore, and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.Govind Chandrasekhar
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in E.R.C.No.6239 of 2016, pending on the file of the Special Metropolitan Magistrate for Railways at Egmore.

2.The respondent police have registered an FIR against the petitioner for an offence under Section 143 of the Railways Act, 1989.

3.It is seen from the records that the Officer, who had registered the FIR, the Officer, who had conducted the investigation and the Officer, who had filed a final report, is the same Officer.

4.The learned counsel for the petitioner would submit that this case is squarely covered by the judgment of the Honourable Supreme Court in Mohanlal Vs. State of Punjab reported in 2018 SCC Online Supreme Court 929.

5.The final report filed by the respondent police has to be quashed since the informant, the investigation officer and the person, who had filed a final report are the same in this case. The Honourable Supreme Court in the above judgment has held that the informant and the investigation officer must not be the same person and if it is the same person, it vitiates the entire investigation.

6.The facts and circumstances of the case is squarely covered by the judgment of the Honourable Supreme Court referred supra.

7.In the result, the proceedings in E.R.C.No.6239 of 2016 on the file of the Special Metropolitan Magistrate for Railways at Egmore is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, Crl.M.P.Nos.2701 and 2702 of 2018 are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsg1/ia
To

1.The learned Special Metropolitan
Magistrate for Railways,
Egmore.

2.The Assistant Sub Inspector of Police,
RPF/Chennai Beach.

3.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.Govind Chandrasekhar , Advocate SR.No. 80836
Crl.O.P.No.5521 of 2018
and
Crl.M.P.Nos.2701 and 2702 of 2018

ASK(14/12/2018)