

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.08.2018

Pronounced on : 03.08.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.6305 of 2010

and

M.P.No.1 of 2010

Sankaran,
S/o.Krishnaswamy Mudaliar. Petitioner/Accused

Vs.

1.State represented by
The Inspector of Police,
Mr.G.K.Venkat Kumar,
J-6 Police Station,
Thiruanmiyur,
Chennai - 600 041,
[Cr.No.9 of 2010]. Respondent/Complainant

2.R.Mariyappan,
S/o.Raju. Respondent/Defacto
Complainant

3.Smt.Vasanthakumari Arulrasa,
W/o.Arulrasa. Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pursuant to the Crime No.9 of 2010 dated 03.01.2010 pending on the file of the Inspector of Police, J-6 Thiruvannmiyur Police Station, Thiruvannmiyur, Chennai - 600 041 and quash the same.

For Petitioner : Mr.P.Tamilavel

For R1 : Ms.V.Saratha Devi
Government Advocate (Cr1.Side)

For R2 & R3 : No appearance

O R D E R

This Criminal Original Petition is filed to call for the records pursuant to the Crime No.9 of 2010 dated 03.01.2010 pending on the file of the Inspector of Police, J-6 Thiruvannmiyur Police Station, Thiruvannmiyur, Chennai - 600 041 and quash the same.

2.The petitioner herein, who is the accused in Crime No.9 of 2010 registered by the first respondent for the offences under Sections 147, 148, 294(b) and 506(ii) of the Indian Penal Code had filed the above quash petition.

3.The contention of the learned counsel for the petitioner is that the second respondent, who is the defacto complainant had preferred a complaint on 10.07.2009, which was initially registered as C.S.R.No.165/J6/09, thereafter, on 03.10.2018, First Information Report was registered against the petitioner and five unknown persons. The petitioner was arrested on 08.10.2010 and was remanded to Judicial custody.

4.The case of the prosecution is that the defacto complainant has preferred a complaint stating that as an agent of one Vasantha kumari Arulrasa, had purchased a property in Plot No.1028 situated in No.36th Cross street, Thiruvalluvar Nagar, Thiruvannamiyur, Chennai - 600 041 of 782 sq.ft. Which was registered as Document No.7628 of 2007. This property was purchased from one Rajeshwari, since the property was unable to maintain by Vasantha kumari Arulrasa, she had given a Power of Attorney to the second respondent and he was maintaining the property. On 04.07.2007, the petitioner along with three unknown persons had claimed ownership of the property and had used abusive language against the second respondent. Thereafter, on 10.07.2009, the petitioner along with four or five hooligans with wooden logs had come and threatened the second respondent by pulling his shirt and threatened the family members by using abusive language and hence, seeking protection for the second respondent and his family members. The complaint has been preferred to the first respondent and hence, the above case has been registered.

5.The further contention of the learned counsel for the petitioner is that already a Civil Suit is pending on the file of the City Civil Court, Chennai between the petitioner and the second respondent in O.S.No.3985 of 2005 and when the petitioner had filed a petition for Anticipatory Bail in CrI.O.P.No.16521 of 2009 before this Court, this Court passed an order on 18.08.2009, observing the petition enquiry was conducted and the case was closed based on the submission of the police. Based on the said observation, the Anticipatory Bail application was closed.

6.The learned counsel for the petitioner further contended that earlier on 14.06.2009, the petitioner had lodged a complaint against the second respondent, since, the first respondent failed to take any action against the second respondent. The petitioner has sent the copy of the complaint to the Hon'ble Chief Minister of Tamil Nadu by registered post on 30.06.2009.

7.This being the case, the petitioner was not served with any summons and the first respondent arrested the petitioner on 08.01.2010 at 5.30 a.m. in Crime No.9 of 2010. But the first respondent produced the petitioner before the Judge at 9.30 p.m. only, till the time the first respondent joined hands with the second respondent threatened the petitioner to sign the compromise memo. When the petitioner refused to sign, then only the first respondent produced the petitioner before the Court, without ascertaining the dispute, which is Civil in nature had given a criminal colour and registered the above criminal case against the petitioner and on this ground sought quashing of the case.

8.The learned Government Advocate on the Criminal side had represented that the investigation in Crime No.9 of 2010 had been completed and the final report is ready to be filed and the copy of the Final report was produced before this Court along with the list of witnesses and their statements.

9.Further, it is submitted by the learned Government Advocate that the records namely arrest card, arrest intimation and other documents are before this Court. The first respondent is directed to file the final report before the Trial Court, within a period of two weeks and the trial Court is directed to conclude the case as expeditiously as possible.

10.In view of the above, the quash petition in Criminal Original Petition is dismissed, since the investigation has been completed and final report is to be filed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

ah
To

- 1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai - 600 015.
- 2.The Inspector of Police,
Mr.G.K.Venkat Kumar,
J-6 Police Station,Thiruanmiyur,
Chennai - 600 041,[Cr.No.9 of 2010].
- 3.The Public Prosecutor, High Court, Madras.
4. The Section Officer, Criminal Section,
High Court, Madras.

Cr1.O.P.No.6305 of 2010

VSNII(CO)

EU(27/08/2018)

<https://hcservices.ecourts.gov.in/hcservices/>