

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.29150 of 2018

and

CRL.M.P.Nos.17054 & 17055 of 2018

A.SankarPetitioner/Accused

-vs-

The Inspector of Police,
Shevapet Police Station,
Salem City.
(Crime No.115 of 2018) Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code to call for the records relating to the proceedings in STC.No.358 of 2018 on the file of the Judicial Magistrate-III, Salem quash the same.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in STC.No.358 of 2018, pending on the file of the Judicial Magistrate-III, Salem.

2. The final report has been filed against the petitioner for an offence under Section 7(1)(a) of Criminal Law Amendment Act, 2005.

3. The learned counsel for the petitioner would submit that the complainant and the investigator in this case is the same police officer. Therefore, the investigation itself is vitiated. In order to substantiate the said submission, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in Mohanlal vs. State of Punjab reported in 2018 SCC online SC, Page 974.

4. The proceeding before the Court below has to be interfered with on the sole ground that the complainant and the investigator are the same officer. The Hon'ble Supreme Court in the judgment referred supra has categorically held that the very foundation of a fair trial, necessarily postulates that the informant and the investigator must not be a same person. If this requirement has not been satisfied, the entire investigation will be vitiated. The facts of the case is squarely covered by the judgment of the Hon'ble Supreme Court.

5. In the result, the proceedings in STC.No.358 of 2018, on the file of the Judicial Magistrate-III, Salem, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/--

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

ssr/kal

To

1.The Judicial Magistrate-III, Salem

2. do thro Chief Judicial Magistrate Salem.

3. The Inspector of Police,
Shevapet Police Station,
Salem City.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohamed Riyaz , Advocate SR.No. 86656

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ASK(04/01/2019)