



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.17444 of 2018

and

CrI.M.P. (MD) .Nos.7721 and 7722 of 2018

Gokul Ganesh

.. Petitioner/2nd Accused

-Vs-

1.State rep. by

The Inspector of Police,
Thirukokarnam Police Station,
Pudukkottai District.
(Crime No.139 of 2017)

.. Respondent/Complainant

2.Manikandan

.. 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.606 of 2018, on the file of the Judicial Magistrate No.II, Pudukkottai and quash the same in respect of the petitioner herein.

For Petitioner : Mr.M.Ramu

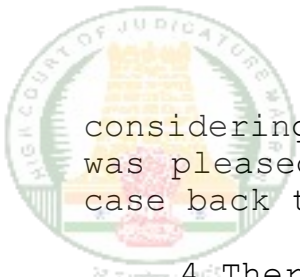
For Respondent : Mr.M.Chandra Sekaran for R1
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the C.C.No.606 of 2018 on the file of the Judicial Magistrate No.II, Pudukkottai.

2.It is seen from the records that the defacto complainant gave a complaint, on 17.05.2017, to the respondent police alleging that three persons attacked him and as a result of the same he sustained grievous injuries. In the complaint he specifically names the assailants namely Aravindaraj, Sundaresan and Purushoth. Based on the complaint, the respondent police has also registered an F.I.R. in Crime No.139 of 2017 for the offences punishable under Sections 294(b), 324, 506(ii) of IPC.

3.While so, the petitioner who is the brother of Aravindaraj applies for police selection. At that time he receives an intimation from the police stating that there is a criminal case pending against the petitioner in Crime No.139 of 2017. The selection of the petitioner is rejected on the said ground. Immediately, the petitioner challenges the rejection order before this Court in W.P.(MD).No.20415 of 2017 and this Court after



considering the entire facts of the case, by order dated 09.01.2018 was pleased to quash the impugned rejection order and remitted the case back to the Superintendent of Police, Pudukkottai District.

4. Thereafter, the respondent police have filed a final report in C.C.No.606 of 2018, by adding the petitioner also as an accused and the petitioner has been arrayed as A2 in the final report.

5. The learned counsel for the petitioner would submit that the petitioner was intentionally added as an accused in this case in order to stop him from getting an appointment as a police. The learned counsel would further submit that the entire complaint is attended with malafide intention and the defacto complainant wanted to wreck vengeance against the petitioner and as a result of the same, the name of the petitioner was roped in at the time of filing the final report.

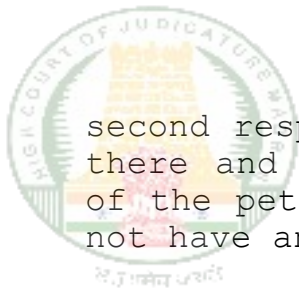
6. The learned counsel for the petitioner in order to substantiate his submission, brought to the notice of this Court the 161 Cr.P.C statement given by the defacto complainant before the respondent police. It is seen that the 161 statement was given by the defacto complainant on 17.05.2017. It should be borne in mind that the complaint was also given by the defacto complainant on 17.05.2017. In this complaint the defacto complainant very clearly names three persons as accused persons on the ground that they only attacked him. However, curiously when a statement is said to have been taken by the police on the very same day that is on 17.05.2017, the defacto complainant names this petitioner as an assailant by stating that he is the brother of the Aravindaraj. The falsity of the statement can be further seen by the fact that the accident Register shows that the defacto complainant got discharged only on 21.05.2017 from the Government Hospital, Pudukkottai. If at all, the defacto complainant had given any statement, it could have been only after 21.05.2017, since the initial statement that was given by the defacto complainant which resulted in an FIR was on 17.05.2017. Therefore, the so called 161 statement before the respondent police could not have been given on 17.05.2017, since the 161 statement contradicts the case of the defacto complainant in the FIR.

7. The learned counsel for the petitioner also brought to the notice of this Court that the so called Mahazar witness had also given statement on 17.05.2017. However, the Mahazar and the sketch that has been filed before this Court clearly reveals that the spot inspection had taken place only on 22.05.2017.

8. The learned Additional Public Prosecutor would submit that the respondent police had filed a final report against the petitioner only on the ground that the complainant had given a statement before the police specifically naming this petitioner also as one of the assailant.

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9. The learned counsel for the petitioner would submit that the



second respondent has gone to the foreign country and he is working there and the second respondent after effectively blocking the way of the petitioner from getting a job in the police department, does not have any more interest in prosecuting this case.

10. The facts and circumstances of the case clearly reveal that the petitioner has been ropicped in this case with a malafide intention by the second respondent. It is the specific case of the second respondent that three named persons attacked him and the complaint given by him before the respondent police reveals the names of the three persons. The name of the petitioner is not found in the said complaint. Therefore, it is not known as to how the second respondent all of a sudden added the name of the petitioner also as one of the assailant when he gave a statement to the respondent police on 17.05.2017. This Court has already held that the so called statement given on 17.05.2017 is not true since the second respondent was taking treatment in the hospital till 21.05.2017. It is therefore clear that the statement has been taken from the second respondent with the only intention of ropping the petitioner as an accused person.

11. This is a clear case of abuse of process of law and this Court has to exercise its jurisdiction under Section 482 of Cr.P.C in order to meet the ends of justice and in order to protect the future of the petitioner, who has been refused to be given a job as a police due to the pendency of this Criminal case.

12. In the result, C.C.No.606 of 2018 on the file of the Judicial Magistrate No.II, Pudukkottai is quashed insofar as the petitioner is concerned. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS II)

TM

To

1. The Judicial Magistrate No.II, Pudukkottai.
2. The Inspector of Police, Thirukokarnam Police Station, Pudukkottai District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

1CC TO MR. M. RAMU, ADVOCATE SR 87602

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