



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) No.21073 of 2013
and
M.P (MD).No.1 of 2013

Vijayakanth ...Petitioner/Accused No.1

Vs.

1.State Rep.by
The Inspector of Police
Kottar Police Station
Kanyakumair District ...1st Respondent/Complainant

2.Gnanasekar
Puplic Prosecutor
Nagercoil
Kanyakumari District ...2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the F.I.R in Crime No.459 of 2013 on the file of the first respondent police and quash the same as illegal.

For Petitioner : Mr.Ajmalkhan
For M/s.Ajmal Associates

For R1 : Mr.A.Robinson
Government Advocate(Criminal side)

For R2 : Mr.T.Lajapathi Roy

ORDER

This Criminal Original Petition has been filed to call for the records relating to the F.I.R in Crime No.459 of 2013 on the file of the first respondent police and quash the same as illegal.

2.The petitioner is figuring as the first accused in Crime No.459 of 2013 registered on the file of the Kottar Police Station, Kanyakumari District. The defacto complainant is the second respondent herein. The second respondent was the District Public Prosecutor in Kanyakumari District. His allegation is that when he was conducting a sessions case on 01.07.2013 at about 11.30 a.m,



when the petitioner herein along with five others entered the Court Hall. The petitioner herein had been summoned in connection with C.C.No.1 of 2013.

3.The allegation of the second respondent is that the petitioner stared at him and prevented him from discharging his official duties. He would further allege that the petitioner gestured to his henchmen to attack the defacto complainant. Thereupon, the persons who accompanied the petitioner with an intent to murder, attacked the defacto complainant. His coat and gown were pulled and they abused the defacto complainant as how he could launch a complaint against the petitioner herein, who was their leader. Thereupon, the other advocates, who were present in the scene, intervened and separated them.

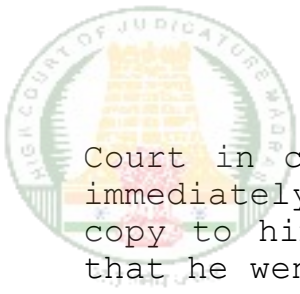
4.In the fracas, the spectacle of the defacto complainant, worth about Rs.6000/- (Rupees six thousand only) got damaged. According to him, on account of the action of the petitioner and his henchmen, the Court proceedings were also stalled and disturbed. The defacto complainant had suffered injuries. Therefore, he lodged a complaint, leading to a registration of Crime No.459 of 2013. Thereafter, alteration report was filed and the offence under Section 307 I.P.C was included. The alternation report in that regard was filed by the first respondent on 09.07.2013. To quash this F.I.R insofar as the petitioner is concerned, this Criminal Original Petition has been filed.

5.Heard Mr.Ajmalkhan learned Senior Counsel appearing for the petitioner and Mr.A.Robinson, learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.T.Lajapathi Roy, learned counsel appearing for the second respondent.

6.The learned counsel appearing for the second respondent contended that the issue calls for factual investigation and that therefore this quash petition is liable to be dismissed as not maintainable. The objection of the learned Government Advocate (Crl.Side) was also on the same line.

7.Since the occurrence in question had taken place inside the Court Hall of the District Court and in the presence of the learned Principal District and Sessions Judge, Kanyakumari at Nagercoil, he had submitted a report vide communication in D.No.4504/2013-A, dated 01.07.2013 to the Registrar General, High Court, Madras. A copy of the said communication has been enclosed in the typed set of papers filed by the petitioner herein.

8.The learned Senior counsel appearing for the petitioner submitted that the authenticity of the said communication could not be doubted and that this Court would be justified in looking into <https://hcservices.courts.gov.in/hcservices/> as an unimpeachable document. The learned Principal District Judge had intimated the Registrar General, Madras High Court that on 01.07.2013, the petitioner herein appeared before the



Court in connection with C.C.No.1 of 2013 and that the matter was immediately taken up, when he appeared and that after furnishing a copy to him under Section 207 Cr.P.C, the matter was adjourned and that he went away from the Court.

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9. According to the learned Principal District Judge, three minutes time was taken up for the case. Since there was fracas among the advocates, who were standing inside the District Court and the Advocates, who came along with petitioner herein, the learned Principal District Judge passed over the Court proceedings and requested the Advocates to keep silent. He had also enclosed the complaint given by the second respondent herein along with the said communication. It is relevant to note here that the learned Principal District Judge had not validated the allegations of the petitioner at all in his communication. If as alleged by the second respondent herein that the petitioner had instigated the henchmen to attack the defacto complainant, certainly the same would have been mentioned in the aforesaid communication dated 01.07.2013. The omission on the part of the Principal District Judge, Kanyakumari District is of utmost significance because he was fully aware of the complaint of the second respondent. In fact the Principal District Judge had enclosed the second respondent's complaint along with his communication. If the communication of the second respondent was indeed true, the Principal District Judge would definitely have confirmed the allegations made by the second respondent. But, the Principal District Judge did not confirm the second respondent's allegation in his communication dated 01.07.2013. This fact has to be necessarily taken note by this Court.

10. Even according to the complaint of the second respondent, the petitioner only stared at him. This Court fails to understand as to how mere staring would come in the way of the second respondent from discharging his official duties.

11. The second allegation made by the second respondent herein against the petitioner is that the petitioner gestured to his henchmen to attack the defacto complainant. Even according to the said complainant, the petitioner did not utter any word. It was only a gesture. It is absolutely possible that the second respondent had misconstrued the nature of the petitioner's gesture. As already pointed out that in the report of the Principal District Judge, Kanyakumari, it is not mentioned that the petitioner stared at the second respondent or gestured to his men to attack the second respondent herein.

12. The petitioner is a well known film personality. During the relevant time, he was the leader of opposition. He had been summoned in connection with a case of defamation. Therefore, his entry into the Court Hall cannot be said to be an act of trespass. This Court

<https://hcservices.courts.gov.in/hcservices/> second respondent who is the District Public Prosecutor has characterized the entry of the petitioner into the Court Hall that too when the case was listed on that day as



trespass. From this single circumstance, this Court comes to the conclusion that the second respondent is prove to exaggeration.

13. In any event, the petitioner has not played any role in the fracas that had taken place after he left. Looked at from any angle, this Court is of the view that prosecuting the petitioner for the offences in question would be an abuse of legal process. The impugned F.I.R is quashed as far as the petitioner is concerned. This Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

/True copy/

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge
Kanyakumari District

2. The Inspector of Police
Kottar Police Station
Kanyakumair District

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

+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No.67336.

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and

M.P (MD) .No.1 of 2013
07.06.2018

msa/mm

RAM/SKN RSK/SAR 3/29.06.2018/4P/5C