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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.01.2018

Delivered on : 01.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.7381 of 2013

and

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

Udayakumar ... Petitioner/Accused No.2

Vs.

K.Veluchamy ... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the complaint in C.C.No.477 of 2012 on the file of the Judicial Magistrate Court, Palani and quash the same.

[Prayer amended as per order of this Court, dated 08.01.2018, made in M.P.(MD)No.3 of 2013 in Crl.O.P.(MD)No.7381/2013]

For Petitioner : Mr.M.Subash Babu

For Respondent : Mr.P.Chellapandian
for Mr.D.Venkatesh

ORDER

This Criminal Original Petition has been filed to quash the proceedings relating to C.C.No.477 of 2012 on the file of the Judicial Magistrate Court, Palani.

2.The petitioner herein is the second accused in C.C.No.477 of 2012 on the file of the Judicial Magistrate Court, Palani. The respondent herein filed a complaint under Section 200 Cr.P.C., against the petitioner and four other accused, in which, he made an allegation that all the accused mentioned in the complaint have committed the offences under Sections 109, 323, 342, 384, 427 r/w. 201 IPC.

3.During the time of occurrence, the petitioner herein was working as a Doctor in the Government Hospital, Palani. The only allegation levelled by the respondent against the petitioner is



that the petitioner joined with other accused and refused to give the copy of the medical certificate, through which, he is screening the offence committed by the Accused Nos.1 and 3 to 5 in the abovesaid Calendar Case.

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4.The learned counsel appearing for the petitioner submitted that in general, so many persons come to the Hospital every day and it is usual, to keep the copy of the accident information report with the file. But, in this case, no such document pertaining to the treatment given to the respondent is available with the hospital. So, the application filed by the respondent under the Right to Information Act was replied as no such document was available. In other words, the petitioner has no intention to destroy the material. Accordingly, the overt act attributed against the petitioner does not constitute the offence of screening evidence. So, the case against the petitioner may be quashed.

5.As per the case of prosecution, the first accused in the abovesaid Calendar Case, who is the Inspector of Police, at the time of occurrence, arrested the respondent and thereafter, produced before the petitioner herein for getting medical certificate and after getting medical certificate, he was sent to jail as per the order of the learned Magistrate. In this occasion, on going through the documents enclosed along with the complaint, which was filed by the respondent, it is seen that he enclosed a copy of the application under the RTI Act and the reply submitted by the hospital authorities and other related documents to the specific events as Documents Nos.8 to 11. At the same time, he has also enclosed a medical certificate prepared in the Sub Jail as Document No.12. On going through the said Certificate, it seems that the certificate was prepared by one doctor on 18.11.2011. In the said date alone, he was remanded to judicial custody. Actually, if the petitioner herein treated the respondent, there is no necessity for getting another one medical certificate from the different doctor. So, the said aspect creates a doubt whether the respondent was treated by the petitioner or not. Accordingly, this Court cannot come to the conclusion that the petitioner herein is screening the evidence pertaining to the complaint lodged by the respondent. Therefore, the allegation levelled by the respondent against this petitioner is not having any merit. In this occasion, this Court is having the duty to invoke the inherent jurisdiction. Accordingly, the case against the petitioner/A2, viz., Udayakumar in C.C.No.477 of 2012 is quashed. Further, since the case is pending from the year 2012, the learned Judicial Magistrate, Palani, is directed to dispose the same within a period of four weeks from the date of receipt of a copy of this order.



Accordingly, this Criminal Original Petition is allowed.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Palani.

2. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 cc TO Mr.M.Subash Babu , Advocate in SR No. 45722

+ 1 cc TO Mr.D.Venkatesh , Advocate in SR No. 45600

smn2

AE/SKN RSK/SAR3/27.02.2018/3P/5C

Crl.O.P. (MD) No.7381 of 2013
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