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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Cr1.O.P.No.5452 of 2011
and
M.P.No.1 of 2011

Jiji Mathew

... Petitioner

Vs.

1. State by:

The Sub Inspector of Police
H-3, Tondiarpet Police Station
Chennai 600 081
(In Cr.No.528/2009)

2.The Special Secretary to Government
Home Prohibition and Excise Department
Secretariat
Chennai 600 009

3.The Commissioner of Police
Greater Chennai Egmore
Chennai 600 008

4.The Joint Commissioner of Police
North Zone
Egmore
Chennai 600 008

5.The Deputy Commissioner of Police
Washermenpet Range
Chennai 600 001

6.The Assistant Commissioner of Police
Washermenpet Range
Chennai 600 081

7.the Inspector of Police
(Law and Order)
H-3, Tondiarpet Police Station
Chennai 600 081

8.K.Selvaraj

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings / charge sheet in C.C.No.1833 of 2010 pending on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.C.Vijayakumar

For Respondents : Mr.C.Iyyapparaj, APP for R1 to R7
Mr.Ramesh Babu for R8

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the proceedings / charge sheet in C.C.No.1833 of 2010 pending on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

2.The petitioner is an Engineering Graduate and a Senior Management Executive in I.T.Company. The mini bus bearing Reg. No.TN.03 A 1139 was said to have been parked in Rathnasabapathy Street and the front glass window of the said vehicle was damaged on 17.09.2009. On 19.09.2009, the petitioner and his father were tactfully taken to the 1st respondent police station and disclosed that one Selvaraj, the defacto complainant and the 8th respondent had lodged a complaint alleging that the front window glass of the defacto complainant was broken by them and instilled fear of imminent remand and forced them to pay Rs.20,000/- to the 8th respondent and illegally arrested and detained them. Hence, the petitioner's father sent a written complaint to the 7th respondent demanding a thorough investigation and the copy of the complaint was also sent to the Chief Minister's cell. All these illegal arrest and detention was carried out at the instigation of one C.Rajendran, who is residing opposite to the house of the petitioner and running an agency called Anand Agency. It is further averred that in the Rathinasabapathy Street in which the petitioner and his family resides, oil tankers and other vehicles are parked violating the traffic regulations thereby causing lot of inconvenience to the residents. The residents of the Street including the petitioner and also Adi Dravida Samooga Sevagar Sangam which is running an SC/BC and Destituted students Hostel made representations regarding the illegal parking of the vehicle which has been causing nuisance to the residents. The petitioner was arrested by the respondent police for damaging the window shield of the defacto complainant's vehicle and a complaint was registered for the offences u/s.294(b), 506(ii) and Section 3 of Tamil Nadu Property (Prevention of Damage & Loss) Act, in order to wreck



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vengeance against the petitioner in Cr.No.528 of 2009 on 19.09.2009 and the charge sheet was filed before the Chief Metropolitan Magistrate Court, Egmore, Chennai in C.C.No.1833 of 2010. Hence, the petitioner is before this Court to quash the said charge sheet.

3.The learned counsel appearing for the petitioner submitted that the petitioner is residing at Rathinasabapathy Street and nearby there is Adi Dravida Samooga Sevagar Sangam which is running an SC/BC and Destituted students Hostel. In front of the petitioner's house and Hostel, the defacto complainant illegally parks his vehicle and one Anand Agencies, which is running a construction mill, selling sand, blue metal and cement storing the material in public road. When the petitioner and the said Hostel made repeated representations to the Law Enforcing Agencies against the illegal parking, the 8th respondent colluded with defacto complainant and lodged a false complaint before the respondent police. No evidence were recorded during the investigation. They have simply recorded some of the interested persons evidence and filed C.C.No.1833 of 2010, which is unsustainable one, accordingly, prays for quashing of the Charge Sheet. Further, notice was sent to the 8th respondent, he has not appeared before this Court. His name was also printed in the cause list but none appeared on his behalf.

4.The learned Additional Public Prosecutor appearing for the respondents submitted that it is not a heinous offence that has been committed by the petitioner. The Law Enforcing Agency has registered a case against the petitioner in Cr.No.528 of 2009 on 19.09.2009 u/s.336, 427, 294(b), 506(ii) IPC and Section 3 of Tamilnadu Private Property Destruction Act. The respondent after examining the witnesses have filed the charge sheet before the Chief Metropolitan Magistrate Court, Egmore, Chennai in C.C.No.1833 of 2010.

5.This court perused the materials. On a perusal of the records, it is seen that the respondent police have recorded 10 witnesses and three witnesses have been examined. The examined witnesses have given the same type of evidence before the law enforcing agency. The records further reveal that there were repeated representations by the petitioner to the law enforcing agency and to the other higher officials about the illegal parking of the vehicles of the defacto complainant and the 8th respondent / Anand Agencies. Though the vehicle of the 8th respondent was damaged on 17.09.2009, the complaint was registered only on 19.09.2009, for which there is no explanation for the delay in filing the complaint belatedly. Further, it is seen from the record that the respondent police have registered the case on the very same day of complaint i.e. 19.09.2009, but,



prior to the complaint, the petitioner made several representations about the illegal parking of the vehicles which was not taken on record for investigation. Hence, considering the facts and circumstances of the case and also considering the ingredients of the offence, this court has no hesitation to quash the proceedings of the charge sheet.

6. In the result this Criminal Original Petition is allowed. The proceedings in C.C.No.1833 of 2010 pending on the file of the Chief Metropolitan Magistrate, Egmore, Chennai is hereby quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

// True Copy //

Sub Assistant Registrar

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To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.

2. The Sub Inspector of Police
H-3, Tondiarpet Police Station
Chennai 600 081
(In Cr.No.528/2009)

3. The Special Secretary to Government
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Chennai 600 001

8.The Inspector of Police
(Law and Order)
H-3, Tondiarpet Police Station
Chennai 600 081

9.The Public Prosecutor
High Court of Madras

Copy to: The Section Officer
Criminal Section, High Court of Madras.

+1CC to Mr.C.Vijayakumar, Advocate, SR.No.103924.

Cr1.O.P.No.5452 of 2011

BS(CO)
CSR: 23/01/2019