

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2019

CORAM:

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.22911 of 2010

and

M.P.No.1 of 2010

[Orders Reserved on 10.08.2018]

Ramadoss

... Petitioner

Vs.

L.Charles Prem Kumar

... Respondent

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code, praying to allow this Crl.O.P.and call for the records in connection with a case in C.C.No.10124 of 2008, on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai - 8 and quash the complaint.

For Petitioner: Mr.R.Srinivas

For Respondent: Mr.P.R.Dinesh Kumar

ORDER

This Criminal Original Petition has been filed praying to quash the proceedings in C.C.No.10124 of 2008, on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai.

2. The facts of the case in brief reads as follows:-

The complainant / Respondent in this case is an Advocate and the Petitioner / Accused is the then Assistant Commissioner of Police. It is alleged that when the complainant went to concerned Police Station to lodge a complaint, the same was not entertained and therefore, he met the petitioner, who was the then Assistant Commissioner of Police. When the complainant introduced himself, the petitioner started using filthy language. Hence, the complainant made a complaint to the Deputy Commissioner's, who in turn, did not initiate any action against the accused. Therefore, the petitioner approached the Chief Metropolitan Magistrate, Egmore, Chennai and made a private complaint, which was taken on file as C.C.No.10124 of 2008, which is pending trial.

3. In the meantime, the petitioner approached this Court by filing the present petition to quash the proceedings. This Court after hearing the arguments advanced on either side, had granted an order of interim stay of the proceedings on 29.09.2010 and also dispensed with the personal appearance of the petitioner before the trial Court.

4. The learned counsel appearing for the petitioner would submit that the petitioner is protected under Section 197 of Cr.P.C., and cognizance cannot be taken without prior sanction of the Government. According to learned Counsel, the complaint was made against the petitioner in order to threat and black mail him with a vindictive motive and as a tool of oppression. If such a type of complaint / action is allowed to continue, the Police cannot discharge their duties in a free and fair manner. Therefore, the learned counsel prayed for quashment.

5. The learned counsel appearing for the respondent / complainant would submit that due to the act of the petitioner / accused, the image of the complainant, as an advocate, was tarnished and he was lowered in the estimation of others, especially, his client and colleagues. There was no justification on the part of the accused in indulging in a character - assassination of the complainant, who came to redress his grievance of not taking action by the lower Officer, before the Higher Authority, who happened to be the accused and the comments made by the accused harm the reputation of the complainant.

6. It is his further contention that the complainant had sent a communication, dated 13.11.2007, to the Government, requesting permission from the Government, under Section 197 Cr.P.C., to prosecute against the accused and since no approval has been received even after a month, it would amount to deemed permission. Therefore, prayed for dismissal of the petition.

7. This Court heard the submission made by the learned counsels appearing on either side and perused the materials available on record.

8. On perusal of the records this Court finds that the averments made by the complainant are unfound. The petitioner had by now retired from service, who had a good service records. The respondent had not produced any material to justify his presence of being in the police station on the relevant day. Further, the petitioner is protected under Section 197 Cr.P.C. In view of the above, continuing of the proceedings will not serve any purpose and would it amount to abuse of process of law. In view of the same, this Court is inclined to quash the proceedings.

9. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.10124 of 2008, pending on the file of the learned Chief Metropolitan Magistrate, Egmore, is hereby quashed. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

MPK

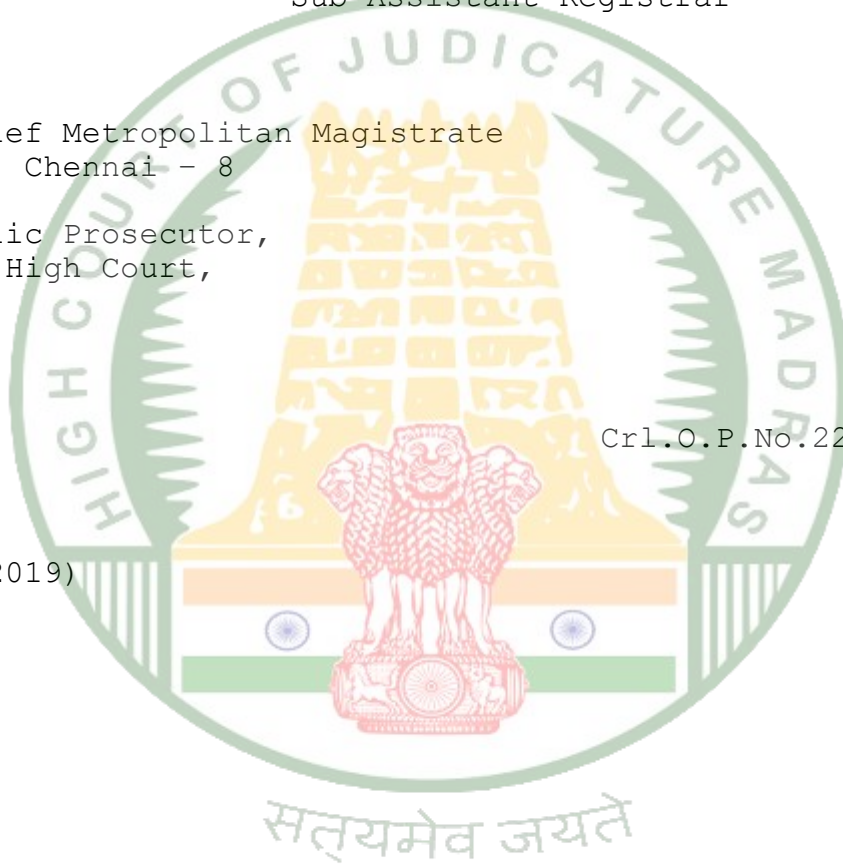
To

1.The Chief Metropolitan Magistrate
Egmore, Chennai - 8

2.The Public Prosecutor,
Madras High Court,
Madras.

Crl.O.P.No.22911 of 2010

SV(CO)
SP(06/03/2019)



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