

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.20852 and 21151 of 2018
in Crl.MP.Nos.2798, 11281 and 11484 of 2018

D.Gobirajan

... Petitioner in both Crl.OPs.

Vs.

1. The Superintendent of Police,
Nagapattinam District,
Nagapattinam.
2. The Inspector of Police/Special Sub-Inspector of Police,
Thiruvankadu Police Station,
Thiruvankadu,
Nagapattinam District.
3. M.Veludevi,
The Inspector of Police,
Thiruvankadu Police Station,
Thiruvankadu,
Nagapattinam District.

... Respondents in both Crl.OPs

4. Mr.S.Ramesh

... 4th Respondent in Crl.OP.No.20852 of 2018

Prayer in Crl.OP.No.20852 of 2018: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the FIR in Cr.No.127/2018 registered on 20.06.2018 by the second respondent police under sections 341, 294 (b), 323 and 509 (2) under IPC registered against the petitioner/accused and quash the same.

Prayer in Crl.OP.No.21151 of 2018: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the FIR in Cr.No.139/2018 registered on 06.07.2018 by the second respondent police under sections 186, 189, 384, 506 (1), 507 of IPC and Section 4 and 6 of the Indecent Representation of Women Act 1986, registered against the petitioner/accused and quash the same.

For Petitioner : Mr.M.Ramamoorthy
in both Crl.OPs.

For Respondents 1 to 3 : Ms.P.Krithika Kamal
Government Advocate (Crl.Side)
in both Crl.OPs.

For Respondent - 4 : No appearance.

C O M M O N O R D E R

These two Criminal Original Petitions are filed by D.Gobirajan, S/o, Durairajan, presently residing in Singapore, who is shown as accused in Crime Nos.127 and 139 of 2018 on the file of Thiruvankadu Police Station.

2. The contention of the petitioner is that the Inspector of Police, who is arrayed as third respondent in these original petitions, due to some personal animosity, foisted the following two false cases against him, viz.,

(i) Crime No. 127 of 2018 on 20.06.2018 under sections 341, 294 (b), 323 and 509 for the alleged offence that the petitioner along with two other accused had attacked the defacto complainant on 15.06.2018 at about 8.00 p.m.

(ii) Crime No. 139 of 2018 on 06.07.2018 under sections 186, 189, 384, 506 (1), 507 of IPC and Section 4 and 6 of the Indecent Representation of Women Act 1989, for the alleged offence that the petitioner along with his father G.Durairaj was threatening the Inspector of Police by publishing news items.

3. According to the petitioner, on 15.06.2018, in which overt act has been attributed against him, he was not even in India and to fortify his submission the photo copy of the passport entry made by the Immigration Official is enclosed in the typed set of papers.

4. Whereas, the contention of the respondents herein is that the petitioner is involved in malign campaign through Face Book and posting abusive post in the locality defaming the name of police force, particularly, the third respondent. As far as the Crime No.127 of 2018 is concerned, though the FIR disclosed the presence of accused, later on receiving further statement from the witness, they have stated that he instigated the crime from abroad. Accordingly, charges has been altered.

5. While admitting the Criminal Original Petitions, this Court felt that there is some prima-facie materials in the contention raised by the petitioner herein and therefore, ordered stay of further proceedings with specific direction to the petitioner to file an affidavit of undertaking to the effect that he will not post any scandalous items in the face book, twitter or any other social media as against the respondents. The petitioner also filed an affidavit of undertaking to the said effect.

6. When the matter is taken up for final disposal, the learned Government Advocate Ms.P.Krithika Kamal, appearing for the respondents 1 to 3 would submit that the petitioner has no locus standi to maintain the original petitions, since he has violated the directions given in the original petitions while ordering interim stay, i.e., after the order passed by this Court on 31.08.2018, he continue to post scandalous items in the face book against the investigating officer.

7. Heard, the counsels at length and perused the records.

8. The Superintendent of Police, Nagapattinam District has also filed a counter affidavit wherein, he has given the details of the cases registered against the petitioner, viz., Crime Nos. 42, 44, 127 and 139 of 2018.

9. In view of the allegations made and the facts and circumstances of the case, the investigation of the case in Crime Nos.127 and 139 of 2018, which is now pending on the file of the Thiruvankadu Police Station, Nagapattinam District is directed to be transferred to the file of CBCID and it should be investigated by the Officer not below the rank of Deputy Superintendent of Police, since, one of the respondent is Inspector of Police and personal allegations were made against her, it is inevitable that the case has to be investigated by an agency which has no influence with the regular police. It is submitted by the counsels that the Thiruvankadu Police has already completed investigation in respect of Crime Nos.42 and 44 of 2018 and filed a final report before the concerned Magistrate. If the Investigation Officer in Crime Nos.127 and 139 of 2018, needs further investigation in respect of Crime Nos.42 and 44 of 2018, it is open to him to get necessary permission/leave from the Magistrate and proceed with further investigation and file an additional final report in that case also.

10. With the above direction, both the Original Petitions are disposed of. It is made clear that this Court is not giving any finding with regard to the merits or demerits of the

Original Petitions, which may cause adverse influence in the investigation. The new Investigation Officer who conduct the investigation shall complete the same and file the final report, within a period of three months from the date of receipt of a copy of this order. The Stay already granted by this Court shall stand vacated. The petitioner herein is directed to co-operate with the investigation and he must be available for investigation as and when required. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

av/at

To

1. The Superintendent of Police,
Nagapattinam District,
Nagapattinam.
2. The Inspector of Police/Special Sub-Inspector of Police
Thiruvankadu Police Station,
Thiruvankadu,
Nagapattinam District.
- 3.The Deputy Superintendent of Police,
CBCID, Nagapattinam District.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.T.Sai Krishnan, Advocate sr.20445

+2cc to M/s.T.Sai Krishnan, Advocate sr.20445(09/05/2019)

Cr1.O.P.Nos.20852 and
21151 of 2018
in Cr1.MP.Nos.2798, 11281
and 11484 of 2018

nr 05/04/2019