

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9767of 2018 and
Crl.M.P.No.5019 of 2018

K.M.S.Rathinam

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Steel Plant Police Station,
Salem District.

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the complaint in C.C.No.60 of 2017 on the file of the learned Judicial Magistrate Court No.1, Salem District and quash the same.

For Petitioner : Mr.N.Vijaya Basker

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No. 60 of 2017 on the file of the learned Judicial Magistrate Court No.1, Salem District.

2. The learned counsel for the petitioner would submit that the petitioner is arrayed as third accused. There are totally three accused. The only allegation as against the petitioner is that he is the owner of the premises and building was rented out to A1, and A2 and except this there are no other allegations. Therefore, the prayer sought for in this petition has to be granted.

3.The learned Additional Public Prosecutor has submitted that the petitioner arrayed as 3rd accused. There are totally three accused in Crime.No.224 of 2013 in which, the petitioner arrayed as 3rd accused is charged for the offences under Sections 3(1), 4(1), 5(1), 6(1) and 7(1) of Immoral Traffic Prevention Act, 1956. Though the petitioner is the owner of the building,

with his knowledge he rented out the building to the first and second accused. Therefore, there are materials as against the petitioner to prove the offence. Therefore, he sought for dismissal of the petition.

4. Heard Mr.N.Vijaya Basker, learned counsel for the petitioner and Mr. M.Mohamed Riyaz, Learned Public Prosecutor for the respondent.

5. There are totally three accused and the petitioner is arrayed as third accused. The charge as against the petitioner is for the offences under Sections 3(1), 4(1), 5(1), 6(1) and 7(1) of Immoral Traffic Prevention Act, 1956.

6. It is seen that even according to the case of the prosecution, the petitioner is the owner of the building in which, the offence was committed by A1 and A2. It is also seen that there is a rental agreement dated 20.04.2013 entered into between the petitioner and the first accused for a monthly rent at Rs.5000/- and advance amount of Rs.40,000/-. Admittedly, the petitioner is the owner of the building and he rented out the same to the first and second accused.

7. It is seen from the statement recorded from the witnesses that there is absolutely no material as against the petitioner to connect him to the charges alleged by the prosecution. The entire allegation has been made out as against the first and second accused. Therefore, the pendency of proceedings as against the petitioner is clear abuse of process of law. The petitioner is the house owner of the premises, and need not undergo the ordeal trial.

8. Considering the above facts and circumstances of the case, this Court is inclined to allow the petition. Hence, the proceedings in C.C.No.60 of 2017 stands quashed, insofar as the petitioner/A3 is concerned. The trial Court is directed to complete the trial proceedings in C.C.No.60 of 2017 as against the first and second accused within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

AT

To

1.The Judicial Magistrate Court No.1,
Salem District.

2. do Thro The Chief Judicial Magistrate,
Salem.

3.The Inspector of Police,
Steel Plant Police Station,
Salem District.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.Law Vision, Advocate, S.R.No. 26201

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VD(CO)
GN(05/04/2019)



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