

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4963 of 2019
and Crl.M.P.No.2902 of 2019

R.Kalyanaraman

... Petitioner

Vs

State represented by

1.The Inspector of Police,
D4 Police Station,
Coimbatore.
Crime No.1119 of 2018

2.M.Muhamad Nowfal

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.1119 of 2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.M.Ramamoorthy
for Mr.A.Ashvathanam

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor for R1

No Appearance for R2

O R D E R

The petition has been filed to call for the records in Crime No.1119 of 2018 on the file of the first respondent and quash the same.

2.The learned counsel for the petitioner would submit that for the very same set of allegations already the Inspector of Police CCB, Chennai registered the case in Crime No.490 of 2018 for the offences under Sections 153 A(1)(a), 295A, 505(1)(b), 505(1)(c), 505(2) of IPC on 21.11.2018. Therefore, the present FIR is registered as against the petitioner.

3.The learned Additional Public Prosecutor submitted that for the very same set of allegation the first respondent also registered the case in Cr.No.1119 of 2018 and now the said FIR dated 17.11.2018 based on the complaint given by Mohammed Nowfal, District P.R.O of Popular Front of India, Karumbukadai, Coimbatore. Therefore, the Commissioner of Police, Coimbatore requested the Director General of Police, Chennai to transfer the F.I.R in Cr.No.1119 of 2018 to the file of the CCB, Chennai and request as follows:

3.1.During the course of investigation, the complainant Mohammed Nowfal was residing on the above address. On 16.11.2018 morning at 01.32 hours, the accused Kalyana Raman has posted in his face book page about disgracing the Islamic Prophet, Islamic religion, Islamic Prophet Mohammed Nabi (Shal) about his wife and created communal clash between two parties. In this circumstances, based on the complaint lodged by one Mohammed Rafiq Raja, District President of Popular Front of India, North Chennai, a case was registered in Chennai City CCB X Cr.No.490 of 2018 under Sections 153(1), (1), (a), 295(A), 505 (1), (b), (C), 505(2) IPC on 27.11.2018 and during the search of the accused Kalyana Raman on 02.02.2019 the accused Kalyana Raman was arrested, when he came from Mumbai through aeroplane by CCB X Police and he was imprisoned in Central Prison, Cuddalore and on receipt of that information, the accused was formal arrest on 07.02.2019 at Central Prison, Cuddalore in the case of Kuniyamuthur Police Station and produced through PT warrant before the Court of Judicial Magistrate No.VII, Coimbatore on 14.02.2019 and extended the Judicial Custody.

3.2.In this circumstances, the accused Kalyana Raman has filed a petition to Quash the Criminal Case of Kuniyamuthur Police Station before the Chennai High Court and the same petition was taken on file in Crl.O.P.No.4963 of 2019 and the said petition was came to enquiry in Chennai High Court on 20.12.2019. Further enquiry has been adjourned. In this regard already a case was registered in Chennai City CCB X Cr.No.490 of 2018 under Sections 153(A), (1), (a), 295(A), 505(1), (b), (C), 505 (2) IPC. Both the cases are under Investigation.

3.3.Hence, Article 20(2) of the Constitution of India, No person shall be prosecuted and punished for the same offence more than once, that is two cases were registered in two different Police Stations and charge sheet was laid for the same occurrence is improper.

3.4.The CD file in D-4 Kuniyamuthur L & O, PS, Cr.No.1119 of 2018 under Sections 153(A), 505(2) IPC, containing pages 1 to 88 along with the proposal in the prescribed format is sent herewith.

3.5.It is requested that orders may kindly be issued to transfer the above case to Chennai City, Central Crime Branch for further investigation.

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

5.It is seen from the above report that the FIR in Crime No.1119 of 2018 now transferred to CCB, Chennai City. As such no person shall be prosecuted and punished for the same offence more than once. Therefore, the F.I.R in Cr.No.1119 of 2018 cannot be sustained.

6.In the result, this Criminal Original Petition is allowed. The proceedings in Cr.No.1119 of 2018 is quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Inspector of Police,
D4 Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.A.AShvathanam, Advocate, S.R.No.19169

सत्यमेव जयते

Cr1.O.P.No.4963 of 2019
and Cr1.M.P.No.2902 of 2019

SSM(05/04/2019).

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