

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.03.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7330 of 2019
and
Crl.M.P.Nos.4070 and 4071 of 2019

Bakiyaraj @ Tamilmani

... Petitioner/Accused

Vs.

The State;

rep. by The Inspector of Police,
Kattumannarkoil Police Station,
Kattumannarkoil,
Cuddalore District.

[Crime No.300 of 2018].

... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.140 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District and quash the same.

For Petitioners: M/s. G. Pugazhenthir

For Respondent : Mr.C.Raghavan

Government Advocate [Crl. Side]

O R D E R

This Criminal Original Petition is filed seeking to quash the FIR in Crime No.300 of 2018. During the pendency of this petition, the respondent police had filed a final report and therefore, the petitioner had sought for amendment of the prayer to challenge the final report filed by the respondent police and the amendment is also allowed by this Court.

2. The final report has been filed by the respondent police for an offence under Sections 143, 188 and 353 IPC.

3. The learned counsel for the petitioner primarily raised two issues before this Court. The first issue that was raised by the learned counsel for the petitioner is that the informant and the investigator in this case are the same person and therefore, the entire investigation is vitiated and the final report is liable to be quashed on this ground alone. In order

to substantiate his submission, the learned counsel for the petitioner relied upon the recent judgment of the Hon'ble Supreme Court reported in 2018 SCC Online SC 974 [Mohan Lal v. State of Punjab].

4. The second issue that was raised by the learned counsel for the petitioner is that the respondent police could not have filed a final report under Section 188 of IPC and it has been held by the reported judgment of this Court in 2018 2 LW 606 [Jeevanandham and Ors v. The State, Represented by The Inspector of Police and Anr], that a final report under Section 188 of IPC cannot be taken cognizance on a police report filed under section 173(2) CrPC and it can be taken cognizance only based on the complaint given by the concerned public servant, in the light of Section 195 of the Code. The learned counsel would further submit that the allegations made in the final report does not attract the provisions of Section 353 of IPC. Since, neither a criminal force nor an assault as contemplated under Section 350 and 351 of IPC has been made out. If these two provisions are not made out, automatically, the offence under Section 143 of IPC will also fall.

5. This Criminal Original Petition has to be allowed on the very first issue that has been raised by the learned counsel for the petitioner. It is seen that the complaint, investigation and also the final report has been filed by the very same police officer. Therefore, the entire investigation stands vitiated and the facts of this case is squarely covered by the judgment of the Hon'ble Supreme Court referred supra.

6. In the result, the proceedings in C.C.No.140 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1. The Inspector of Police,
Kattumannarkoil Police Station,
Kattumannarkoil,
Cuddalore District.
[Crime No.300 of 2018].

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.G.Pugazhenthii, Advocate, Sr.No. 28270

Crl.O.P.No.7330 of 2019

CSL/17.05.2019



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