

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:18.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.OP.No.15585 of 2019
and
Crl.M.P.No.7727 of 2019

K.Muthuramalingam ...Petitioner/1st Accused

-Vs-

1. State rep. by
Deputy Superintendent of Police,
Crime Branch, CID, PRC,
Chennai-600 008.Respondent/Complainant

2. D.PandiyarajRespondent/Defacto complainant

Prayer: This Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to C.C.No.6755 of 2018 on the file of the learned Special Metropolitan Magistrate to try CCB and CBCID Cases at Egmore, Chennai and quash the same.

For Petitioner : Mr.R.Singaravelan - Senior Counsel
for Mr.B.Kumarasamy

For Respondents: Mr.T.Shanmuga Rajeswaran - R1
Govt. Advocate(Crl.side)

सत्यमेव जयते
Mr.A.V.Somasundaram - R2

O R D E R

The Criminal Original Petition has been filed to call for the records pertaining to C.C.No.6755 of 2018, on the file of the learned Special Metropolitan Magistrate to try CCB and CBCID Cases at Egmore, Chennai and quash the same.

2. Based on the complaint given by one Pandiyaraj/defacto complainant and as per the directions of this Court, the first respondent police investigated the matter and laid charge sheet before the learned Special Metropolitan Magistrate to try CCB

and CBCID Cases, Egmore, Chennai and the same was taken on file in C.C.No.6775 of 2008. During pendency of the case, the petitioner has filed the present Original Petition to call for the records pertaining to C.C.No.6755 of 2018, on the file of the learned Special Metropolitan Magistrate to try CCB and CBCID Cases at Egmore, Chennai and quash the same.

3. The learned Senior Counsel for the petitioner would submit that in the complaint given by the second respondent in the name of the petitioner has not been mentioned. In the FIR itself only 10 unknown persons have been mentioned and no allegations are made against this petitioner. During investigation, the first respondent police has recorded the statement from the defacto complainant/second respondent herein. Though the second respondent has categorically stated that at that time of incident, the petitioner was present at some distance from the place of occurrence, there is no incriminating materials shown against him that he has committed the offence either Section 294(b) IPC or Section 506(ii) IPC. The statement of the second respondent/defacto complainant was recorded by the first respondent Agency on several dates. In none of these statements, he has implicated this petitioner. The other witnesses have not spoken anything about the present petitioner except that he was present at some distance from the scene of occurrence.

4. Further, the learned Senior Counsel pointed out that the petitioner is a known person of the second respondent/defacto complainant. In order to prove the same, he has also placed the copy of the order passed by the learned Special Metropolitan Magistrate to try CCB and CBCID Cases at Egmore, Chennai, in which the petitioner appeared as Advocate of the defacto complainant herein/first petitioner therein in proceedings, which shows that the petitioner is a known person to the defacto complainant/second respondent. If really the petitioner was also involved, the defacto complainant would have named the petitioner in the FIR. But, he has not mentioned about the petitioner in the complaint or in the FIR. Further, the statement also does not reveal that he has spoken anything adverse against the petitioner herein. Therefore, even the Investigating Officer has not stated that the witnesses so far examined, have spoken about anything adverse against the petitioner herein. Since prima facie no allegations levelled against the petitioner for the offences under Section 294(b) or 506(ii) IPC and prima facie no case was made out against him.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that the witnesses have not spoken anything adverse against the petitioner. Since he was present at the scene of occurrence, his name has also been

included in the charge sheet. The second respondent fairly conceded that there is no allegation levelled against this petitioner and his grievances are only against the investigating agency that they have not done fair investigation. Therefore, he has filed an Original Petition and the same is also pending before this Court and related Special Leave Petition is also pending before the Hon'ble Supreme Court. Except the said information, he has not given any allegations against the petitioner herein.

6. Heard the learned Senior Counsel for the petitioner and the learned counsel for the respondent and the learned Government Advocate (Crl. side) and perused the materials available on record.

7. It is seen from the records that the second respondent herein is the defacto complainant and he made a complaint before the Inspector of Police, G-1, Vepery Police Station in Crime No.595 of 2015. Subsequently, based on the directions of this Court, the first respondent police have done investigation and laid a charge sheet before the learned Special Metropolitan Magistrate to try CCB and CBCID Cases at Egmore, Chennaiin C.C.No.6755 of 2018. During the pendency of the case, the petitioner herein has filed this petition to quash the charge sheet filed against him.

8. As submitted by the learned Senior Counsel and on a careful perusal of the report filed by the first respondent under Section 173 of Cr.P.C., prima facie there is no allegation against the petitioner, except that the petitioner was present at some distance place on the date of occurrence. It is fit case for quashing the charge sheet pending against the petitioner herein.

9. In the result, this Criminal Original Petition is allowed and the charge sheet laid against this petitioner alone is quashed. Consequently, connected miscellaneous petition is closed. However, it is made clear that if the case is transferred to any other Investigating Agency, the said agency can do the investigation fairly, this order will not affect the investigation to be conducted by such agency.

sd/-

Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

rli

To

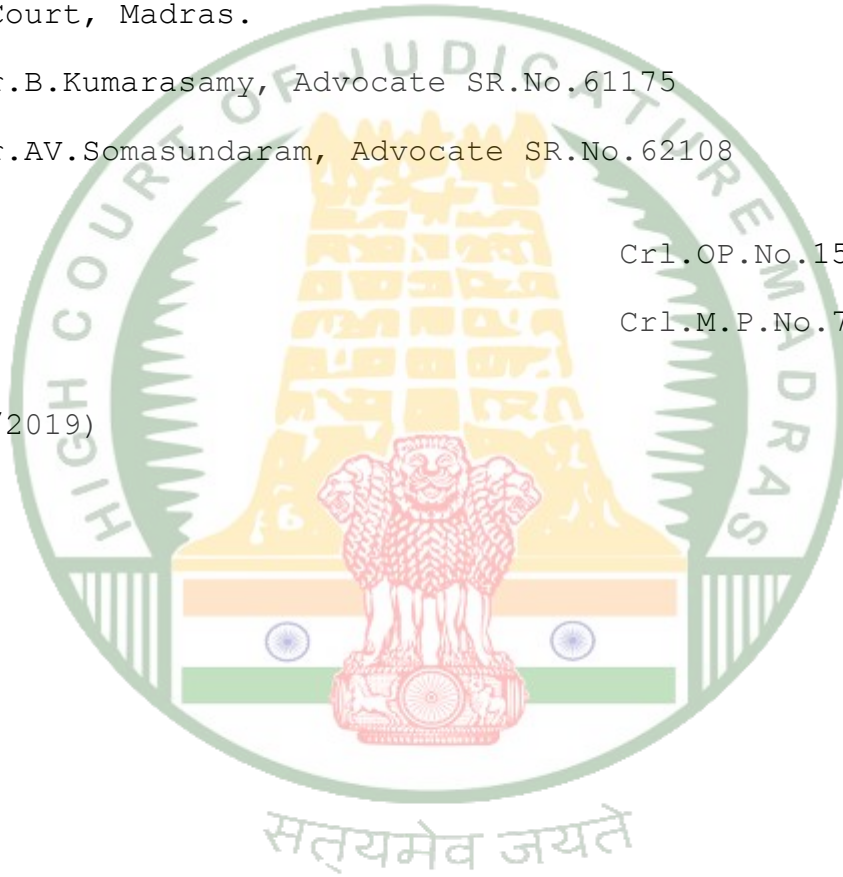
1. The Special Metropolitan Magistrate,
CCB and CBCID Cases,
Egmore, Chennai
2. The Deputy Superintendent of Police,
Crime Branch, CID, PRC,
Chennai-600 008.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Kumarasamy, Advocate SR.No.61175

+1cc to Mr.AV.Somasundaram, Advocate SR.No.62108

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GMV (28/08/2019)



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