

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.16364 of 2019
and
CRL.MP.No.8200 of 2019

Karuna @ K.Karunakaran

...Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
B-4 High Court Police Station,
Chennai - 600104.
(Crime No.23/2007)

2. Thangarasu
Inspector of Police,
Karumalaikudal Police Station,
Mettur Taluk,
Salem District.

...Respondents

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.1889 of 2008 on the file of the VII Metropolitan Magistrate Court, George Town, Chennai and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.Abrar Mohamed Abdullah

For Respondents: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.1889 of 2008, pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai.

2. The case of the prosecution is that the Defacto complainant had come to this Court on 28.06.2007 to attend the proceedings in H.C.P.No.665 of 2007, 897 of 2007 etc. At that time, more than 60 Advocates had assembled in the Court hall and there was a melee. It is the case of the Defacto complainant that he was physically assaulted and therefore, he was taken for

treatment to the hospital. Based on his statement, an FIR came to be registered in Crime No.23 of 2007 for various offences under IPC on 28.06.2007. An FIR was registered against four named accused and 25 others.

3. One of the named accused is Karuna. During the course of investigation, the respondent-Police were attempting to identify the accused persons and were in search of the above said Karuna. All of a sudden, a final report came to be filed in which the petitioner, who is named as Karunakaran was shown as A4 and a summon was also served on him from the Court. Only at that point of time, the petitioner came to know that he has been made as an accused in the case.

4. The learned counsel appearing for the petitioner submitted that the petitioner, who was initially enrolled as an Advocate, suspended his practice with effect from 15.12.2005 and thereafter, he joined in this Court as a Personal Clerk by direct recruitment. Subsequently, he was also promoted to the post of P.A to the Hon'ble Judges with effect from 20.12.2006. Thereafter, he was also upgraded as P.S to the Hon'ble Judges from 01.03.2017. The learned counsel therefore, submitted that for an incident which is said to have been taken place on 28.06.2007, at which point of time, this petitioner was not even an Advocate, the petitioner has been falsely roped in the place of Karuna, by showing the name of the accused as Karuna @ Karunakaran. The learned counsel therefore, submitted that the proceedings against the petitioner is an abuse of process of Court and therefore, requires interference of this Court in exercise of this Jurisdiction under Section 482 of Criminal Procedure Code.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent-Police submitted that during the course of investigation, the respondent-Police had identified Karuna as Karunakaran and therefore, when the final report was filed, the name of A4 was shown as Karuna @ Karunakaran.

6. This Court has carefully considered the same on the materials available on record.

7. This is a case, which clearly shows the slipshod manner in which the investigation has been conducted by the respondent-Police and a person who was not even an Advocate at the time when the incident happened, was made as an accused in the final report, due to an unfortunate coincidence in the name of the accused person. A4, whose name is found as Karuna was made as Karunakaran in the final report and the respondent-Police for their own convenience have added this petitioner as an accused.

8. This Court, is in complete agreement with the submissions made by the learned counsel for the petitioner. There are absolutely no materials to make this petitioner as an accused in the present case. The pendency of the proceedings against this petitioner is clearly an abuse of process of Court and it requires interference of this Court under Section 482 of Criminal Procedure Code.

9. In the result, the proceedings in CC.No.1889 of 2008, pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai is hereby, quashed insofar as the petitioner is concerned and the Criminal Original Petition is allowed accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1.The VII Metropolitan Magistrate
Chennai .

2. The Inspector of Police,
B-4 High Court Police Station,
Chennai - 600104.
(Crime No.23/2007)

3. Inspector of Police,
Karumalaikudal Police Station,
Mettur Taluk,
Salem District.

4.The Public Prosector
High Court, Madras 104.

+1 CC to Mr.I.Abrar Md Abdullah, Advocate sr 57922

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BS(CO)
SP(13/08/2019)