

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21164 of 2019
and
Crl.M.P.No.10937 of 2019

R.Sabarinathan

... Petitioner

Vs.

1. The State,
Rep. by The Inspector of Police,
Abiramapuram Police Station,
Mylapore, Chennai.

2. Rajalakshmi ... Respondents

Prayer:

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records to quash the FIR in Crime No.739 of 2017 on the file of the 1st respondent Police in the present Crl.O.P.

For Petitioners : M/s.Saitanya Kesan

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

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.739 of 2017 pending investigation on the file of the first respondent police.

2.The petitioner had already approached this Court and filed Crl.O.P.No.7849 of 2019 seeking for the very same relief. This Court passed an order dated 01.04.2019 and the same is extracted hereunder:-

"This petition has been filed to quash the FIR in Crime No.739 of 2017 on the file of the first respondent police, for offences under Sections 147, 448 and 427 of IPC, as against the petitioner.

2.The learned counsel for the petitioner submitted that they filed a copy application on 29.03.2019, seeking copy of the charge sheet, but it was returned for the reason that no charge sheet was filed by the first respondent.

3. The learned Additional Public Prosecutor would submit that the first respondent police has completed the investigation in Crime No.739 of 2017 and also filed a charge sheet in S.No.1482 of 2018 issued on 03.10.2018 before the learned Metropolitan Magistrate No.XXII, Saidapet.

4. Considering the facts and circumstance of this case, quashing of FIR cannot be considered now and the prayer sought for in this petition has become infructuous. However, the learned Metropolitan Magistrate No.XXII, Saidapet is directed to take the charge sheet on file within a period of two weeks from the date of receipt of the copy of the order.

5. At the same time, the petitioner is also at liberty to challenge the final report, if so advised.

6.In the result, this Criminal Original Petition is dismissed as infructuous. Consequently, connected miscellaneous petition is also closed."

3.The grievance of the petitioner is that even after the order was passed by this Court, the petitioner was attempting to get the copy of the final report by filing a copy application before the Court below and the copy application was returned on 19.07.2019 with an endorsement that the final report has not yet been filed before the Court. Therefore, the petitioner is not in a position to challenge the final report and therefore the petitioner is forced to seek for the quashing of the FIR, by filing a 2nd quash petition before this Court.

4.The learned Additional Public Prosecutor on instructions submitted that the final report has been filed before the XXIII Metropolitan Magistrate, Saidapet on 04.10.2018 and the records were also produced before this Court to substantiate the said submissions. The learned Counsel submitted that there was an incharge Magistrate, who was dealing with the cases assigned to this Court and only recently a regular Magistrate has been appointed. The learned Counsel therefore requested this Court to give a direction to the concerned Magistrate to take the final report on file.

5.The learned Counsel for the petitioner submitted that there are absolutely no materials against the petitioner and the petitioner has been forced to face a false criminal case and the petitioner is not in a position to challenge the final report since it is not available before the XXIII Metropolitan Magistrate, Saidapet.

6.This petition seeking for the relief of quashing the FIR, cannot be entertained for the second time since there are no change in circumstances and the same will amount to reviewing the earlier order. This Court has already given liberty to the petitioner to challenge the final report, if so advised.

7.In view of the above, there shall be a direction to the XXIII Metropolitan Magistrate, Saidapet to take cognizance of the final report filed by the respondent police in S.No.1482 of 2018 in Cr.No.739 of 2017, within a period of two weeks from the date of receipt of copy of this order, in accordance with law. If and when the final report is taken cognizance, it is left open to the petitioner to work out his remedy as indicated in the earlier order passed by this Court.

8.This Criminal Original Petition is disposed of with the above directions. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jas/vs

To

1. The Inspector of Police,
Abiramapuram Police Station, Mylapore, Chennai.
2. The Public Prosecutor, High Court, Madras.

+1cc to M/s.Saitanya, Advocate, S.R.No.74488

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PM(CO)
CS/19/09/2019