



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P. [MD]No.4146 of 2019

and

Cr1.M.P. (MD)No.2484 of 2019

Kanagaraj : Petitioner

/Vs./

1.State represented by the
Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
(In Crime No.301/2017)

2.Ramasubramanian : Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the charge sheet in S.T.C.No.431 of 2018 on the file of the learned Judicial Magistrate, Tiruchendur and to quash the same.

For Petitioner : Mr.R.Jegan
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Cr1.Side)

ORDER

The present case has been filed to quash the proceedings in S.T.C.No.431 of 2018 pending on the file of the learned Judicial Magistrate, Tiruchendur.

2. The case of the petitioner is that he is the President of Tamil Nadu Neernilaikal Matrum Kovil Nilangal Padhukappu Sangam registered under the provisions of Tamil Nadu Societies Registration Rules, 1978. The petitioner is the native of Kulasekarapattinam Village and a sincere devotee of Arul Tharum Mutharamman Temple and Sundara Nachiyamman Temple. The second respondent / Executive Officer of Mutharamman Temple undertakes to celebrate Dasara festival in the month of Puratasi misappropriated the funds of the Sri Mutharamman Temple. The second respondent made entries as if they are going to perform some works for the purpose of festival and swindled the amount. Hence, the petitioner made a complaint to the temple authorities on 20.11.2017. In order to defeat the said complaint, the second respondent foisted a false complaint before the Law Enforcing Officer Crime No.301 of 2017 against the petitioner as if the petitioner entered into the temple premises and threatened the temple employees by using filthy language. The Law Enforcing Agency has also filed charge sheet against the petitioner after completing the enquiry. Challenging



the same, this Criminal Original Petition has been filed.

3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. In fact the petitioner has made a complaint on 20.11.2017 against the second respondent, based on which the Commissioner, HR & CE took cognizance on the second respondent and the enquiry is pending. As a counter blast, the second respondent filed the present complaint before the respondent police as if the petitioner abused and threatened the staff of the temple and that the case itself a foisted case. He would further submit that there is no material to implicate the petitioner as accused in the present case. Accordingly, he prays for allowing this petition.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner went to the second respondent's office and threatened the staff members to bring the name of the petitioner in the invitation printed by the HR & CE for the Dasara Festival. Since the same was refused, the petitioner quarrelled with the temple staff and made false allegations. The respondent police enquired into the matter and examined the witnesses and then file the final report. He would further submit that there are necessary evidence and materials available to implicate the petitioner in this case.

5. Considering the facts and circumstances of the case, this Court is not inclined to interfere with the the ongoing proceedings in S.T.C.No.431 of 2018 at this stage. Accordingly, this Criminal Original Petition is dismissed.

6. At this juncture, the learned counsel for the petitioner requests that the personal appearance of the petitioner before the trial Court may be dispensed with.

7. Acceding the request made by the learned counsel for the petitioner, the personal appearance of the petitioner before the trial Court is dispensed with on condition that he shall be present for receiving charge sheet, for answering the charges, at the time of questioning under Section 313 Cr.P.C., and at the time of passing judgment. However, the petitioner is directed to give an undertaking in the form of affidavit that the counsel representing him will cross examine the prosecution witnesses on the day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //



ta

To

- 1.The Judicial Magistrate, Tiruchendur.
- 2.The Chief Judicial Magistrate, Thoothukudi District.
- 3.The Inspector of Police,
Kulasekarapattinam Police Station,
Thoothukudi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. [MD]No.4146 of 2019
15.04.2019

NR(CO)
TR (08.05.2019) 3P 5C