



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2019

CORAM:

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THE HON'BLE MR.JUSTICE P.N.PRAKASH**Cr1.O.P. (MD) No.6228 of 2014 & Cr1.M.P. (MD) Nos.1 & 2 of 2014**

B.T. Kumar @ Arasukumar

... Petitioner

Vs.

1 State represented by
the Inspector of Police
District Crime Branch
Pudukottai District
(Cr. No.48 of 2013)

2 Sivanandam

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records relating to C.C. No.138 of 2013 on the file of the Judicial Magistrate, Alangudi and quash the same.

For petitioner : Mr. V. Kathirvelu, Sr. Counsel
for Mr. S. Ravi

For R1 : Mr. A.P.G. Omchairmaprabhu
Govt. Advocate (Cr1. Side)

For R2 : No appearance

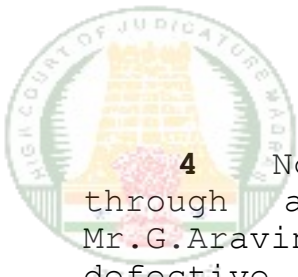
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ORDER

This criminal original petition has been filed seeking to call for the records relating to C.C. No.138 of 2013 on the file of the Judicial Magistrate Court, Alangudi and quash the same.

2 On the complaint lodged by Sivanandam, the second respondent herein, the first respondent police registered a case in Cr.No.48 of 2013 and after completing the investigation, filed final report in C.C. No.138 of 2013 before the Judicial Magistrate, Alangudi under Sections 406,420 and 506 (I) IPC against the petitioner herein, seeking quashment of which, this criminal original petition has been filed.

3 Heard Mr.V.Kathirvelu, learned Senior Counsel representing Mr.S.Ravi, learned counsel on record for the petitioner and Mr.A.P.G. Omchairmaprabhu, learned Government Advocate (Cr1. Side) appearing for the first respondent police.



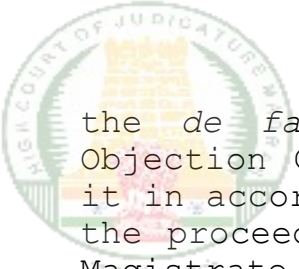
4 Notice was served on Sivanandam and he entered appearance through advocate Mr. G. Aravindan. The vakalat filed by Mr.G.Aravindan was returned by the Registry as it was found to be defective. However, Mr. G. Aravindan has not re-presented the vakalat. Therefore, this Court directed the Registry to print the name of Mr.G.Aravindan and Sivanandam in the cause list. Accordingly, both their names were printed in the cause list. Therefore, they cannot be heard to say that this Court has passed orders behind their back.

5 On reading of the charge sheet, it is seen that it is alleged therein that the petitioner was running an institute styled "B.T.K. Teachers' Training Institute in the year 2002; he promised two persons, viz., Sivanandam and Muthukumar that he will help them get the necessary permission from the Governmental authorities for running M.S. Udayamurthy Teachers' Training Institute and collected Rs.14 lakhs in April 2002 and thereafter, did not get the necessary permission; on 22.08.2013, when Sivanandam met him and asked him for return of money, he threatened Sivanandam and hence, the complaint and the consequential charge sheet.

6 On reading of the complaint and Section 161(3) Cr.P.C. statement of the witnesses, the accusation, on the face of it, appears unbelievable. Even according to the *de facto* complainant, sometime in the year 2002, he met the petitioner and the petitioner promised to get No Objection Certificates from the Central and State Governments for establishing a Teachers' Training Institute and collected Rs.14 lakhs and did not get the promised No Objection Certificates. The *de facto* complainant has not even stated the date on which, the sum of Rs.14 lakhs was given by him to the petitioner. It is not the case of the *de facto* complainant that the petitioner was in abscondence. In fact, the *de facto* complainant and Muthukumar have stated that they met the petitioner several times in Chennai and that the petitioner was promising them that he would, sooner or later, obtain No Objection Certificates and ultimately, on 22.08.2013, when they asked him to return the money, he threatened them and therefore, they had no other option but to lodge a police complaint.

7 The learned Government Advocate (Crl. Side) strongly opposed the petition and submitted that the police have registered several cases against the petitioner subsequently.

8 Be that as it may, this Court finds the allegations to be *ex facie* unbelievable. For a transaction that had allegedly taken place in the year 2002, the complaint has been lodged in the year 2013. Even in the complaint, there is no reference to the date or the manner in which the amounts were given to the petitioner. It is not the case of the *de facto* complainant that the petitioner had some links with the Governmental authorities, with which, he promised to get the necessary No Objection Certificate. Why should



the *de facto* complainant resort to devious methods to get No Objection Certificate? He could have himself applied and obtained it in accordance with the rules. In such perspective of the matter, the proceedings in C.C. No.138 of 2013 on the file of the Judicial Magistrate Court, Alangudi, is quashed.

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In the result, this criminal original petition is allowed. Connected Crl.M.Ps. are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1 The Inspector of Police
District Crime Branch
Pudukottai District
- 2 The Judicial Magistrate
Alangudi
- 3 The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

+1 CC to M/s.S.RAVI, Advocate in SR-57821

Crl.O.P. (MD) No.6228 of 2014
29.03.2019
(1/2)

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