



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.15264 of 2014

and

M.P. (MD)No.1 of 2014

WEB COPY

M.Muthu Prem Chand

... Petitioner/Accused

Vs

T.Venkatesan

... Respondent/Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.241 of 2012 on the file of the learned District Munsif-cum-Judicial Magistrate, Andipatti, Theni District and quash the same.

For Petitioner : Mr.S.Hameed Ismail

For Respondent : Mr.L.Shaji Chellan
for Mr.K.Vamanan

ORDER

The petitioner is facing trial in C.C.No.241 of 2012 on the file of the Judicial Magistrate, Andipatti for the offences under Sections 341, 211, 323, 294(b) and 220 of IPC.

2.It is a private complaint. The case of the complainant is that the petitioner while working as a Sub Inspector of Police, had indulged in excesses. To quash the same, this criminal original petition has been filed.

3. The petitioner's counsel would contend that the impugned proceedings deserve to be quashed as prior sanction of the Government was not obtained. He invokes Section 197 of Cr.P.C and places reliance on the decision of the Hon'ble Apex Court made in Crl.A.No.722 of 2015, dated 27.04.2015. He also points out that while the occurrence took place on 01.04.2009, the complaint was lodged one year later.

4. I am of the view that both the contentions are not sufficient for me to quash the proceedings.

5. As rightly pointed out by the learned counsel appearing for the respondent, the petitioner was working as a Sub Inspector of Police, when the complaint was filed. The Sub Inspector of Police can be removed from his post by the orders of Deputy Inspector General of Police. He is not a person who can be



removed from service, only by the Government. Therefore, Section 197 of Cr.P.C., is clearly not available in this case.

6. The learned counsel appearing for the complainant also drew my attention to the decision reported in **(2013) 15 Supreme Court Cases 552 (-Fakhruzamma Vs. State of Jharkhand and another)**. Para No.8 of the said decision reads as under:-

"8.A similar issue came up for consideration before this Court in Nagraj case, wherein, this Court was called upon to examine the scope of Section 197 of Cr.P.C., read with Section 4(c), 8, 26(1) and 3 of the Mysore Police Act, 1908. Interpreting the above mentioned provisions, a three Judge Bench of this Court held that an Inspector General of Police can dismiss a Sub Inspector and, therefore, no sanction of the State Government for prosecution of the appellant was necessary even if he had committed the offences alleged while acting or purporting to act in discharge of this official duty."

7. Therefore, the first contention is clearly not available to the petitioner. The other contentions urged by the petitioner namely the belated lodging of the complaint is also not sufficient for me to quash the impugned proceedings. The petitioner will have to necessarily establish his innocence only in a regular trial. This Criminal Original Petition stands dismissed.

8. It is seen that the petitioner is working as a Inspector of Police. Therefore, his appearance before the Court below is dispensed with. However, the Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charge, to examination under Section 313 of Cr.P.C., and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by his counsel. If the petitioner's counsel is also absent, the benefit of dispensing the personal appearance of the petitioner will stand automatically vacated. It is made clear that this Court has not pronounced anything on the merits of the matter. All the contentions of the petitioner are left open. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To
The District Munsif-cum-Judicial Magistrate,
Andipatti, Theni District

WEB COPY

+1 CC to M/s.K.VAMANAN, Advocate (SR-87458[F] dated 18/09/2019)

+1 CC to M/s.P.SIVACHANDRAN, Advocate (SR-88153[F] dated
20/09/2019)

Crl.O.P (MD) No.15264 of 2014
18.09.2019

KM/(10.10.2019) 3P 4C