



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD) No.13953 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

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Muthuramalingam

... Petitioner/Sole Accused

Vs

1.State represented by,
Inspector of Police,
Ettayapuram Police Station,
Cr.No.33/2015,
Tuticorin District.

...1st Respondent/Complainant

2.R.Sivasubramanian

...2nd Respondent/Defacto
Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.66 of 2015 pending before the learned Judicial Magistrate No.I, Kovilpatti, Tuticorin District and quash the same.

For Petitioner : Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Prabhu

For R1 : Mr.A.Robinson
Government Advocate (Crl.side)

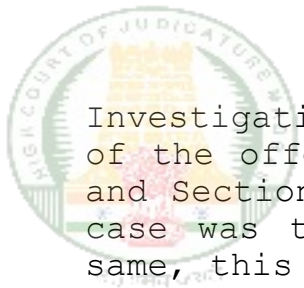
For R2 : No appearance

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent.

2.The petitioner is facing trial in C.C.No.66 of 2015 on the file of the Judicial Magistrate No.I, Kovilpatti. The defacto complainant is the second respondent herein.

3.The case of the defacto complainant is that on 17.01.2015, at about 17 hours, when the police vehicle was going in Ettayapuram Main Road, near Kansapuram, Theppakulam, the petitioner is said to have way laid the said vehicle and in a drunken condition, abused the police personnel . Therefore, Crime No.33 of 2015 was registered on the file of the Ettayapuram Police Station.



Investigation was taken up and final report was filed. Cognizance of the offences under Sections 294(b), 341, 353 and 506(ii) of IPC and Section 4(i)J of Tamil Nadu Prohibition Act, was taken and the case was taken up for trial in C.C.No.66 of 2015. To quash the same, this criminal original petition has been filed.

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4.It is not in dispute that the petitioner was an accused in a few cases under the Tamil Nadu Prohibition Act. But then, all these cases were quashed by this Court in Crl.O.P.(MD)Nos.23069, 23070 and 23071 of 2015, by order dated 08.01.2015. The order of this Court quashing the cases against the petitioner was made on 08.01.2015. FIR in question was registered on 17.01.2015. This Court can very easily make out that the registration of the FIR in question was a direct fall out of the quashing order passed by this Court. The Hon'ble Supreme Court, in **Bhajanlal Case**, held that where the criminal proceedings are manifestly attended with mala fide and where the criminal case has been instituted to wreck vengeance, the same can be quashed. The said parameter can be very well invoked in this case. The prosecution case is also inherently improbable. Even according to the final report, the police party comprised the local inspector, Sub Inspector and quite a few constables. A solitary individual would simply not have the courage even under the influence of alcohol to stop the police vehicle and utter the words set out in the final report.

5.The Hon'ble Supreme Court in the very same case has also held that if the prosecution case is inherently improbable, it can be quashed. The impugned proceedings are liable to be quashed on that ground also. Therefore, the impugned proceedings are quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
Ettayapuram Police Station,
Cr.No.33/2015,
Tuticorin District.

2.The Judicial Magistrate No.I, Kovilpatti,
Tuticorin District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-98651[F] dated 15/11/2019)

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KK/SAR/16.12.2019/3P-5C/