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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P.(MD)No.17534 of 2015 and

M.P.(MD)No.1 of 2015

N.Jeyaram Sitharth

... Petitioner/Accused

Vs.

1. The Inspector of Police,
Sivagangai Town police station,
Sivagangai. ... 1st Respondent/Complainant

2. P.Boominathan ... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C, to call for the records relating to the impugned proceedings in C.C.No.150 of 2015 dated 11.7.2015 on the file of the Judicial Magistrate No.1, Sivagangai and set aside the same.

For Petitioner	: Mr.RM.Arun Swaminathan, for M/s.Chettinad Legal Solutions.
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-2	: Mr.Usilai.O.Sivakumar

* * *

O R D E R

The petitioner herein Jeyaram Sitharth is figuring as the sole accused in C.C.No.150 of 2015 on the file of the Judicial Magistrate No.I, Sivagangai. The second respondent herein is the defacto complainant. Crime No.375 of 2015 was registered on the file of Sivagangai Town police station at his instance. The occurrence is said to have taken place on 09.06.2015. The issue involves an altercation between the petitioner on the one hand and the second respondent on the other. The case was investigated and final report was filed for the offences under Sections 294(b), 353, 355 and 506 of Cr.P.C. Cognizance of the aforesaid offences was taken. The



case was taken up for trial in C.C.No.150 of 2015 by the Judicial Magistrate No.1, Sivagangai. To quash the same, this criminal original petition came to be filed.

2. Heard the learned counsel appearing for the petitioner herein and the learned Government Advocate(Crl.Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

3. The petitioner had done his law course. He had not yet been enrolled. It appears that the petitioner was standing in Thondi Road along with his friends. The second respondent received information that a group of persons were indulging in eve-teasing. Therefore, the second respondent is said to have gone to the spot. Even according to the second respondent, the other members ran away while the petitioner herein alone stood in in the ground and picked up quarrel with the second respondent.

4. I carefully went through the statements recorded under Section 161 of Cr.P.C. The petitioner was aged hardly 23 years. His father was a local reporter of a newspaper. The petitioner was waiting for enrollment. It is quite possible that the petitioner who had just then passed out of the Law college felt emboldened to confront the police. He did not run away. It is clearly possible that the second respondent on seeing the demeanor of the petitioner, got into altercation with him.

5. I find it impossible to believe that the petitioner would have uttered the words attributed to him in the final report. In the year 2015, it became fairly well known that a person who has chosen to face the criminal case will have serious difficulties in getting enrolled. It may be relevant to mention here that the petitioner is a lawyer practising before this Bench. Therefore, it is simply impossible to believe that the petitioner would have behaved himself in the manner attributed to him before the respondent police.

6. The Hon'ble Supreme Court in the decision reported in 1992 Supp (1) SCC 335 (State of Haryana Vs. Bhajan Lal) laid down certain parameters which have to be borne in mind while considering a petition for quashing a criminal proceedings. They are as under :

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable



offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

The prosecution case is inherently improbable. Therefore, the impugned proceedings stand quashed.

7. The petitioner is present in person before me. He has filed a private complaint against the second respondent herein in C.C.No.188 of 2016 on the file of the Judicial Magistrate, Sivagangai. The petitioner now states that since he has got the relief in this criminal original petition, he has no intention to prosecute the same. Since the complainant himself does not want to prosecute the said criminal case, I am of the view that continuance of the said criminal prosecution would only amount to an abuse of legal process. In this view of the matter, the proceedings in C.C.No.188 of 2016 on the file of the Judicial Magistrate, Sivagangai, also stand quashed.

8. The criminal original petition stands allowed,

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accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate No.1,
Sivagangai.
2. The Inspector of Police,
Sivagangai Town police station,
Sivagangai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+2CC TO MR.R.M.ARUN SWAMINATHAN, ADVOCATE, SR NO.99166

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KK/27.02.2020/4P-6C

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