



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.11.2019
CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.7086 of 2018

and

Crl.M.P (MD) Nos.3380 and 3381 of 2018

Raja Mohammed

... Petitioner/Sole Accused

Vs.

1. The State represented by
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
(Crime No.211 of 2012)

... Respondent/Complainant

2. T. Balamurugan
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

... Respondent/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the charge sheet as made in learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District in Connection with C.C.No.102 of 2012 and quash the same as illegal.

For Petitioner : Mr.M.Jegadeesh Pandian
For R-1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.102 of 2012, on the file of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District.

2. The case of the prosecution is that the second respondent / *de facto* complainant along with other Police officials conducted inspection at the petitioner's shop. In the said shop, the petitioner without obtaining any certificate under the Copyright Act, 1957, alleged to have possessed some materials and the same were seized from the said shop and he was arrested and remanded to judicial custody. Hence the complaint.

3. It is seen from the records that the first respondent Police investigated the case and filed a final report before the



learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District and the same has been taken cognizance in C.C.No.102 of 2012, for the offences under Sections 51 r/w 63 of CRA and 52 (A) r/w 68 (A) of the Copy Right Act and Section 292 of the Indian Penal Code as against the petitioner herein.

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4. The learned counsel appearing for the petitioner would submit that in this case both the complainant as well as the Investigating Officer are the same. He would further submit that the first respondent ought to have produced the seized materials before the concerned Judicial Magistrate, wherein, as on date, no electronic materials as stated in the evidence was produced before the concerned Jurisdictional Magistrate. He would further submit that as on date, Form-95 was not produced before the concerned Jurisdictional Magistrate. He would further submit that there is no material for the prosecution to substantiate the allegations as against the petitioner.

5. It can be seen from the records that the First Information Report was registered by the first respondent and he is conducting the investigation and he has also filed the final report. Therefore the very same investigation in this case is vitiated. This case is squarely covered by the judgment of the Honourable Supreme Court in the case of **Mohan Lal- vs- The State of Punjab reported in Criminal Appeal No.1880 of 2011**, wherein the Honourable Supreme Court has categorically held that the foundation of the fair trial postulates that the informant and the investigator must not be the same person.

6. In view of the above, the proceedings initiated against the petitioner in C.C.No.102 of 2012, on the file of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, is hereby quashed and the Criminal Original Petition stands allowed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1. The Judicial Magistrate No.I, Sivakasi,
Virudhunagar District.



2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

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

+1 CC to Mr.M. JEGADEESH PANDIAN, Advocate (SR-97947[F] dated
13/11/2019)

Crl.O.P. (MD)No.7086 of 2018

and

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