



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1 OP(MD)No.20308 of 2016

and

Cr1 MP(MD)No.10246 of 2016

Suresh

... Petitioner / Accused No.5

Vs.

1.State, represent through the
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
(In Crime No.135 of 2015)

... Respondent No.1/
Complainant

2.Pradhaban
the then Inspector of Police,
Gangaikondan Police Station,
Tirunelveli District.

Presently working at:
Inspector of Police,
Sengottai Police Station,
Tirunelveli District

... Respondent No.2/
Defacto complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records of the Final Report in PRC No.14 of 2016 on the file of the learned Judicial Magistrate Court No.III, Tirunelveli and quash the same as illegal.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.A.Robinson,
Government Advocate (crl.side)
for R1

ORDER

The petitioner is shown as A5 in PRC No.14 of 2016 on the file of the Judicial Magistrate Court No.III, Tirunelveli. The defacto complainant in this case is the Inspector of Police, Gangaikondan Police Station. At his instance, Crime No.135 of 2015 was registered. The case was taken up for investigation and final report was filed. Cognizance of the offences under Sections 25(1) (A) of the Arms Act r/w.Section 7 (1)(A) of Criminal Law Amendment Act was taken. The case is now pending at the committal stage. To



quash the impugned prosecution, this Criminal Original Petition has been filed.

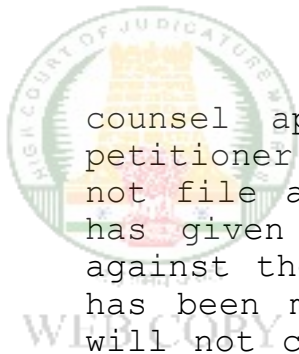
2.The case of the prosecution is that when the police team was on their usual patrol, they overheard the accused numbering six telling among themselves that if the other caste men come, they should be done to death. Seven Aruvals were also seized under Mahazar. The petitioners' counsel submitted that the petitioner had joined the Southern Railway as Track Maintainer and had returned home from duty on the night of 06.04.2015. When he was asleep during midnight hours, he received a phone call as to why a police vehicle has been parked outside his residence. The petitioner thereupon realized that the police had entered the house of their neighbor Subramanian. The petitioner thereafter telephonically called his neighbor and wanted to know as to why there was a visit by the police at that hour. When the petitioner was having his tele-conversation with his neighbor, the same was intercepted and the mobile phone was seized by the police and upon coming to know that the petitioner had made a call, the police entered the house and forcibly took him away. The father of the petitioner Thiru.Sankaran lodged a complaint with the Superintendent of Police, Tirunelveli District on the very next day morning ie., 07.04.2015 at about 10.33 hours. The relevant postal receipt is enclosed in the typed set of papers at Page No.5. The complaint lodged by the petitioner's father was duly received by the office of the Superintendent of Police, Tirunelveli on 08.04.2015.

3.I am satisfied that these materials are unimpeachable and carry credibility. When the petitioner's father gave a complaint that the petitioner has been detained by the police team in the midnight of 06.04.2015, the prosecution case that the petitioner was conspiring with the other accused to commit murder of other community members is simply impossible to believe.

4.The learned counsel for the petitioner placed reliance on the decision of the Hon'ble Supreme Court reported in 1992 Supp (1) SCC 335 (State of Haryana vs. Bhajan Lal). The Hon'ble Supreme Court laid down certain parameters for exercising the inherent powers under Section 482 of Cr.PC. One such parameter is as under :

" Where a criminal proceeding is manifestly attended with mala fide 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."

5.I am satisfied that in this case, the impugned prosecution is attended by malafides atleast as far as the petitioner is concerned. Therefore, applying the aforesaid ratio laid down in Bhajan Lal's case, I quash the impugned prosecution as far as the petitioner is concerned. I do not make any other observation regarding the complaint against the other accused. The other accused cannot take advantage of the order now passed by this Court. The learned



counsel appearing for the petitioner on instructions from the petitioner undertakes that he would give a quietus to the matter and not file a claim for damages against the police. Since this Court has given a categorical finding that the impugned criminal case against the petitioner herein is devoid of any factual basis and has been maliciously instituted against the petitioner herein, it will not cast any kind of stigma or disqualification on account of his having been implicated in the impugned prosecution. In other words, the petitioner's track record will be treated as clean.

6.With these observations, this criminal original petition stands allowed as far as the petitioner is concerned. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

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/ /2020

Sub Assistant Registrar(CS)

Skm

To

- 1.The Judicial Magistrate Court No.III, Tirunelveli.
- 2.The Inspector of Police, Thalaisyuthu Police Station, Tirunelveli District. (In Crime No.135 of 2015)
- 3.The Inspector of Police, Gangaikondan Police Station, Tirunelveli District.
- 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai

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and

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AP (19.03.2020) 3P 5C