



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) No.15483 of 2017

and

Crl.M.P. (MD) No.10295 of 2017

P.Rajendran

... Petitioner/Accused No.2

Vs.

1) State rep. by
The Inspector of Police,
South Gate Police Station,
Madurai, Madurai City.
(Crime No.846/2017)

2) V.K.S.Marichamy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to Crime No.846/2017 on the file of the 1st respondent police and quash the same as against this petitioner.

For Petitioners : Mr.P.Thilakkumar

For R-1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

For R-2 : Non Appearance

O R D E R

The Criminal Original Petition has been filed seeking to quash the F.I.R. filed in Crime No.846/2017 pending investigation on the file of the first respondent police.

2. The case of the de facto complainant is that civil proceedings are going on between the de facto complainant and A-1. The case is conducted on behalf of A-1 by the petitioner herein (A-2). It seems that there was an ex parte decree passed in favour of A-1 and the de facto complainant was taking steps to set aside the ex parte decree by filing an appropriate petition. When this petition was sought to be served by the counsel for the de facto complainant to the petitioner, the petitioner refused to receive the notice and he is said to have informed the counsel for the de facto complainant that the case will be dragged on for some time and the name board that is found in the property will be removed in the mean



time. Based on his complaint, the petitioner has been added as A-2.

3. The learned counsel for the petitioner submitted that the entire prosecution against the petitioner is an abuse of process of law and an Advocate has been unnecessarily made to face the criminal prosecution. The learned counsel submitted that the complaint itself has been given based on a hear-say version of the de facto complainant which he is said to have gathered from his counsel. The learned counsel submitted that the counsel, who was conducting the case on behalf of A-1, has been made as an accused and this goes against the independence of an Advocate in conducting his profession and this requires interference of this Court.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police. The name of the second respondent has been printed in the cause list and there is no appearance for the second respondent.

5. It is a clear case of abuse of process of law. The petitioner, who is an Advocate was appearing for A-1 in a civil proceedings. An ex parte decree was passed in favour of A1. The allegation is that the petitioner is evading to receive notice when a petition to set aside the ex parte decree was filed by the second respondent and in the mean time, the name board was removed from the property. According to the de facto complainant, the name board was removed only on the advice of the petitioner. There cannot be a more frivolous complaint than this. If such complaints are entertained and Advocates are made as an accused, there is a clear threat on the independence of the profession. Anybody can make an allegation to this effect and make an Advocate face criminal prosecution. This should never be allowed and this Court has absolutely no hesitation to quash the F.I.R. insofar as the petitioner is concerned.

6. In the result, the F.I.R. registered in Crime No.846/2017, pending investigation on the file of the first respondent police is hereby quashed and the Criminal Original petition is allowed. Consequently, connected Crl.M.P.(MD) No.10295 of 2017 is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
South Gate Police Station,
Madurai, Madurai City.

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

+1 CC to M/s.P.THILAKKUMAR, Advocate (SR-103053[F] dated 02/12/2019
)

Order made in
Crl.O.P. (MD) No.15483 of 2017

pk(CO)
TR(03.01.2020) 3P 4C