

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.7713 of 2013

and

Crl.M.P.Nos.1 & 2 of 2013

S.M.S.Devadoss

S/o.S.Swvigaradoss

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by Inspector of Police,
S6, Sankar Nagar Police Station,
St.Thomas Mount District,
Chennai 600 075.

2.Mr.M.Munusamy,

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for records in STC.143 of 2011 pending on the file of the Judicial Magistrate, Tambaram, and quash the same.

For Petitioner : Mr.D.Ferdinand
for M/s.BFS Legal

For Respondents : Mr.R.Ravichandran for R1
Government Advocate (Crl.side)

O R D E R

The first respondent registered a case as against the petitioner in Crime No.372 of 2010, based on the complaint given by the second respondent. After investigation, the first respondent laid a charge sheet before the learned Judicial Magistrate, Tambaram. The learned Judicial Magistrate has taken the charge sheet on file in S.T.C.No.143. The petitioner is arrayed as sole accused in this case. During pendency of the S.T.C, the accused/petitioner has filed the present petition before this Court invoking Section 482 Cr.P.C., to quash the complaint.

2.The learned counsel for the petitioner submitted that the petitioner and the daughter of the second respondent loved each other and got married against the will of the second respondent and their family. Therefore, the second respondent has foisted a false complaint against the petitioner. The petitioner has also filed a complaint against the second respondent, which was registered in Crime No.373 of 2010 and that case was closed by the second respondent Police as "mistake of fact", against which the petitioner has filed a protest petition and the same was taken on file in C.C.No.248

of 2014 before the learned Judicial Magistrate, Tambaram. The learned counsel further submitted that the Investigating Officer has falsely created all the records and also that they have completed the investigation on 01.07.2010 itself, but he has not filed the charge sheet within the reasonable time and filed the charge sheet on 01.06.2012, i.e., after lapse of two years and he has also not produced all the documents before the Court within the reasonable time. The learned counsel submitted that the investigating officer has not followed the Police Standing Orders 566 and thereby violated the standing orders also. Therefore, the charge sheet filed in S.T.C.No.143 of 2011 requires to be quashed.

3.The learned Government Advocate (Crl.side) submitted that based on the complaint given by the second respondent, the first respondent registered a case against the petitioner and after investigation, he laid a charge sheet before the learned Judicial Magistrate, Tambaram. The learned Magistrate has also taken cognizance of the charge sheet and taken into file in S.T.C.No.143 of 2011 and same is at trial stage. The learned Government Advocate submitted that the witnesses have spoken about the involvement of the petitioner in the above said offence. Therefore, prima facie case is made out as against the petitioner and he has to face the trial and there is no ground to quash the charge sheet.

4.Heard Mr.D.Ferdinand, learned counsel for the petitioner and Mr.R.Ravichandran, learned Government Advocate (Crl.side) for the 1st respondent Police and perused the records.

5.Admittedly, a case was registered by the 1st respondent Police in Crime No.172 of 2010 against the petitioner based on the complaint given by the 2nd respondent. The petitioner has also filed a complaint against the second respondent, which was registered in Crime No.173 of 2010, which after investigation closed as "mistake of fact" against which the petitioner has also filed a protest petition and the same was taken on file in C.C.No.248 of 2014 and the same is pending before the learned Judicial Magistrate, Tambaram. On the complaint against the petitioner in Crime No.172 of 2010, after investigation, charge sheet has been laid before the learned Judicial Magistrate, Tambaram, and the same was taken on file in S.T.C.No.143 of 2011. Pending the case, the petitioner has filed the present petition. Though the learned counsel for the petitioner submitted that the first respondent created the documents against the petitioner, they have not sent the documents immediately to the Court soon after the registration of the FIR, recording the statement and preparation of final report. They have laid the charge sheet before the Court only on 01.06.2010 i.e., two years after registration of the FIR. It itself shows that they have created the documents and a false case has been foisted against the petitioner. However, on reading of the statements

of the witnesses, there are incriminating materials against the petitioner. Though, the petitioner has also filed a complaint against the second respondent and others, that was closed as "mistake of fact" and the protest petition filed as against the same is pending before the very same Court. Under such circumstances, this Court does not find any reason to quash the charge sheet filed in S.T.C.No.143 of 2011 invoking Section 482 Cr.P.C. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to defend the case in accordance with law before the trial Court. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:

1.The Inspector of Police,
S6, Sankar Nagar Police Station,
St.Thomas Mount District,
Chennai 600 075.

2.The Public Prosecutor,
High Court,
Madras.

+lcc to M/s.BFS Legal , Advocate SR.No. 3850
Crl.O.P.No.7713 of 2013

A.SK(20/02/2020)