

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.16143 of 2020
and
Crl.M.P.No.6194 of 2020

P.Venkatesan

... Petitioner

Vs

1.The Sub Inspector of Police,
B-6, Mappedu Police Station,
Thiruvallur District.

2.Udhayashankar.M

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the F.I.R. in Crime No.1716/2020 on the file of the respondent police and quash the same.

For Petitioner : A.Rajesh Kanna.

For Respondents: Mrs.M.Prabhavathi,
Additional Public Prosecutor for R1.

O R D E R

The matter was heard through "Video Conference".

2.This Criminal Original Petition has been filed seeking the relief of calling for the records of F.I.R. registered in Crime No.1716/2020 on the file of the first respondent police and quash the same as illegal.

3.Heard Mr.A.Rajesh Kanna, learned Counsel appearing for the petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the first respondent.

4.The case of the prosecution in the above referred crime number is that on 01.08.2020 at about 8 A.M., the petitioner herein came to the occurrence place and abused the Supervisor

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viz., Mr.Karuppusamy who was present in the occurrence place. Therefore, the complaint has been lodged before the Chief Minister Special Cell. Subsequently on 12.08.2020, at about 9 A.M., when the defacto complainant was working in site, the petitioner herein came there and insulted the defacto complainant by using filthy language and further, took his knife and came to attack the defacto complainant. Since, the defacto complainant ran from the said place, he has not sustained any injuries and it is stated that the said occurrence was witnessed by so many persons.

5.With respect to the said averments, the learned Counsel appearing for the petitioner would submit that case has been registered after 12 days from the date of occurrence. Further, he submitted that without any averments for constituting the offence under Section 307 of Indian Penal Code, the first respondent police had purposely registered the case against the petitioner with an ulterior motive as if he was attempted to murder the defacto complainant. Therefore, the learned Counsel for the petitioner submitted that the registration of FIR itself, is an abuse of process of law and admittedly, the same has to be quashed.

6.Per contra, the learned Additional Public Prosecutor appearing for the first respondent police submits that the averments found in the complaint given by the petitioner discloses prima facie case for the offence under Sections 307, 384, 447, 294 (b) of Indian Penal Code and therefore, the said FIR has been registered and as of now, the same is pending for investigation.

7.Upon considering the rival submissions made by the learned Counsel appearing on either side, it is seen that the averments found in the complaint given by the defacto complainant discloses cognizable offence and therefore, it cannot be said that the FIR has been registered with an ulterior motive. Though the complaint has been lodged with a delay of 12 days, whether the delay has been satisfactorily explained or not, has to be considered only after examining the defacto complainant. More than that, only because of the reason that the case has been registered for the offence under Section 307 of Indian Penal Code, it cannot be assumed that the final report should also be filed with the same section.

8.In fact, it is a settled position of law that only after ascertaining the nature of injury sustained by the defacto complainant, the case has to be decided by the investigation officer. Apart from that, there is no abuse of process of law

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committed by the first respondent in this stage. At this juncture, it is relevant to refer to the Judgment of Hon'ble Supreme Court of India dated 12.02.2019 in the case of "SAU.Kamal Shivaji Pokarnekhar -vs- The State of Maharashtra & Ors." Applying the ratio laid in the above referred Judgment, this Court is of the view that since the allegations levelled by the petitioner is on the factual issues, the same has to be decided only during the time of enquiry and hence, this Court is not inclined to allow this petition. To put in other words, as already observed, the registration of the case itself is not an abuse of process of law.

9. Accordingly, the petition filed by the petitioner is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Inspector of Police,
B-6, Mappedu Police Station,
Thiruvallur District.

2. The Public Prosecutor,
High Court of Madras,
Chennai.

Cr1.O.P.No.16143 of 2020
and

Cr1.M.P.No.6194 of 2020

GP(CO)
CB(06/11/2020)

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