

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.23585 of 2014 and
Crl.M.P.No.1 of 2014

Charles Napoleon Raj,
Inspector of Police,
Vigilance and Anti Corruption,
Thanjavur.

... Petitioner/Accused No.7

Vs.

Ravi @ Mattu Ravi

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.8 of 2009 presently on the file of the learned Judicial Magistrate Court, Thiruvarur and quash the same.

[Amended as per the order of this Court dated 13.04.2015 in Crl.M.P.No.3 of 2014 in Crl.O.P.No.23858 of 2014]

For Petitioner : M/s.K.P.Anantha Krishan
For Respondent : M/s.R.Sankarasubbu

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in P.R.C.No.8 of 2009, pending on the file of the Judicial Magistrate, Thiruvarur.

2.The case of the petitioner is that the respondent filed a private complaint on 01.07.2008 under section 190 of Cr.P.C before the learned Judicial Magistrate, Thiruvarur and the same was taken on file in P.R.C No.8 of 2009 for alleged offences under Sections 323, 324, 326, 341, 342, 363, 506 (ii), 307 IPC and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act) and in the private complaint it is alleged that the respondent is an organizing Secretary of "Tamilar Thanmana Peravi" for the purpose of organization, he is working for the betterment of the poor and downtrodden in society and the respondent claiming himself that he is a social

worker to work for the welfare of the society. Accordingly, he used to participate in many agitations for the social welfare mainly for the poor and downtrodden persons. While so, on 01.11.2001 one Dhansekaran was murdered in Police custody at Thiruvarur Town Police Station, the respondent and the members of Thamilar Thanmana Peravai shouted slogans and also conducted several agitations against the police officials and their atrocities against the Law abiding citizen and demanded enquiry and to bring and book those who are responsible for the murder of said Dhanasekaran. The murder case of said Dhanasekaran was investigated by the local police and one Mr. Sheik Dawood the Secretary of Thamilar Thanmana Peravai filed an application before this Court for transferring the investigation of the above case to CBI in CrI.O.P.No.4199 of 2002 and the said case is still pending before this Court and the respondent was pressurized by the police to withdraw the said case filed by the said Sheik Dawood.

3. It is further alleged that the respondent had refused to withdraw the above said application for transfer from this Court. The Police official conspired together and initiated several false cases against the respondent and it is further alleged that the respondent attended the case foisted by the police before the learned Judicial Magistrate, Thiruvarur on 26.08.2004 and stood in the Varanda in the said Court, the police arrested the respondent along with other accused and registered a case in Crime No.373 of 2004 on the file of Tiruvarur Police Station and lodged at Trichy Central Prison. It is further alleged that the respondent was granted bail by this Court on 31.07.2006 in CrI.O.P.No.13221 of 2006 and he was released on 10.10.2006 and has been complying the condition. It is further alleged that before bail application, the respondent faced en-counter threats from the police officials/accused, the respondent's wife filed a Writ petition before this Court in W.P.No.37241 of 2006 and on 11.10.2006 this Court directed the first and second respondent to conduct a detailed enquiry regarding the encounter threats. It is further alleged that on 26.10.2006, the respondent went to the Thiruvarur Town Police Station for signing as per order of this Court and as soon as he arrived police station, he was arrested and taken to TATA Sumo Jeep which was brought up by Police and this occurrence was witnessed by respondent's advocate and public were standing in front of the police station. Thereafter, one Karthikeya, Advocate asked the S.I. of Police Mr. Charles Nepolean/petitioner in respect of the said occurrence, the S.I. simply said that the respondent was taken by Special Team headed by I.G. for interrogation and further alleged that he was taken to Thiruvarur Armed Reserve Police Campus, A.R. ground, Thirupattur

and was brutally attacked the respondent complainant. Immediately thereafter the respondent complainant filed a Habeas Corpus Petition in H.C.P.No.1081 of 2006 and thereafter, the respondent was released by the said police and filed the present complaint against the police officials including the petitioner. Challenging the said complaint the petitioner/A7 in the complaint filed the present petition before this Court.

4.Mr.K.P.Anantha Krishna, learned counsel appearing for the petitioner would submit that the petitioner is the Inspector of Police, Tiruvarur Taluk P.S., Tiruvarur. The allegation made against the petitioner is that on 26.10.2006, one Karthikeya, Advocate asked the whereabouts of the respondent and the petitioner simply said that the respondent was taken by Special Team headed by I.G. for interrogation. Except this bald allegation, no other allegation has been made against the petitioner and it is not sufficient to implicate the petitioner in this case. While so, the respondent is facing nearly 14 cases out of which 3 murder cases and for other offences are heinous in nature and when the respondent was involved in nearly 14 robbery cases, it is necessary for the Station House Officer concerned to interrogate the respondent in order to avoid further committal of offences and the respondent has filed private complaint for the purpose of drag on the criminal proceedings and it is purely false complaint.

5.Further, the learned counsel would draw the attention of this Court to paragraph 6 of the order passed by this Court dated 23.08.2007 in H.C.P.No.1163 of 2010 and would submit that even a perusal of the order itself makes it clear that allegation made in the complaint is baseless and this Court appointed a learned District and Sessions Judge, Nagapattinam to conduct an enquiry and file report before the Division Bench of this Court. Accordingly the learned Judge filed a report on 16.03.2007. Relying upon this categorical view, the learned counsel prays this Court to allow this petition.

6.Per Contra, M/s.R.Sankarasubbu, learned counsel appearing for the respondent would submit that the points raised by the learned counsel for the petitioner has to be decided only during the trial and not in this petition. Further, the Division Bench order is only a persuasive value and the report filed by the learned District and Sessions Judge, Nagappatinam is an adjudicatory in nature. He would further submit that the petitioner/Station House Officer failed to protect the respondent in the hands of the 1st, 2nd and 5th accused at the relevant point of time and he has made involvement in the case as abettor.

7.This Court has considered the submissions made on either side and perused the materials available on record.

8.A perusal of the order passed by the Division Bench of this Court in H.C.P.No.1163 of 2006, dated 23.08.2007 filed by the wife of the respondent herein, shows that the allegations made in this case has been discussed and the relevant portion of the order is extracted here under:-

"7.It is true, in appropriate cases, this Court, exercising the power conferred under Article 226 of the Constitution of India, can award compensation in the case of injuries sustained by the detenu while in custody, provided if the Court is satisfied with the substantial materials available in that regard. But, unfortunately, in the instant case, this Court having ordered for an enquiry by the learned District and Sessions Judge, Nagapattinam and the learned Judge having rendered a finding in the report dated 16.03.2007 to the effect that the version given by the detenu regarding the manner in which he sustained injuries by an act of force upon him by Vellaidurai and Sethumanimadhavan does not appear to be convincing, it may not be proper to refuse to accept the report or to award compensation in spite of lack of materials to do so. But, at the same time, the petitioner as well as the detenu are not left out without any remedy for appropriate relief against such alleged brutal attack by respondents 5 to 7 and to claim compensation, if so advised, in accordance with law.

8.Therefore, as already stated, taking note of the fact that the detenu was in judicial custody and subsequently, he was enlarged on bail by an order of the learned Judicial Magistrate, Kumbakonam, dated 02.01.2007 and from then onwards, he was no more in prison nor was under any illegal custody, we feel that no further orders are required in this Habeas Corpus Petition except to give the liberty to the detenu to work out his rights seeking appropriate relief against such alleged brutal attack by respondents 5 to 7 and for claiming compensation, in the manner known to law, in which event, the

concerned Court of Forum shall permit the detenu as well as the respondents to substantiate their respective case and pass appropriate orders on merits, without being prejudiced by the finding rendered by the learned District and Sessions Judge, Nagapattinam, in the report dated 16.03.2007 or by any of the observations made in any of the interim orders passed by this Court in the above H.C.P."

9.Considering the facts and circumstance of the case and the submissions put forth by the learned counsel and also in view of the above narrated facts and on perusal of the order passed by Division Bench of this Court dated 23.08.2007 in H.C.P.No.1163 of 2006, this Court is of the view that complaint filed by the respondent which was taken on file as P.R.C.No.8 of 2009 on the file of the Judicial Magistrate Court, Thiruvarur, is baseless and no ingredients are made out to proceed against the petitioner and therefore, the same is liable to be quashed.

10.Accordingly, the proceedings in P.R.C.No.8 of 2009 pending on the file of the Judicial Magistrate Court, Thiruvarur is hereby quashed. This Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (C.S.VI)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Thiruvarur.

+1cc to Mr.K.P.Anantha Krishna, Advocate SR.No.11989

AKM/12.03.2020 /5P-3C/

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