

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.28387 of 2014

Poonsolai ... Petitioner
Vs.
Vadivelu ... Respondent

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to call for the records in the private complaint in C.C.No.7 of 2014 pending on the file of the learned Judicial Magistrate-III, Vellore District and quash the same.

For Petitioner : Ms.S.P.Arthi

For Respondent : Mr.M.Santhana Raman

O R D E R

This criminal original petition has been filed seeking to call for the records in the private complaint in C.C.No.7 of 2014 pending on the file of the learned Judicial Magistrate-III, Vellore District and to quash the same.

2.The petitioner joined the service in Police Department in the year 1984 as Police Constable and was promoted as Sub-Inspector of Police in the year 1997 and was further promoted as Inspector of Police in the year 2006.

3.The respondent is the defacto complainant and he has filed a private complaint before the learned Judicial Magistrate-III, Vellore District as against the petitioner and seven others for the offence under Sections 166, 218, 219, 220, 294(B), 323, 324, 342, 348, 355, 448, 465 and 506(ii) of IPC. The said complaint was taken on file by the learned Judicial Magistrate-III, Vellore District and was numbered as C.C.No.7 of 2014. Challenging the same, the present petition has been filed.

4.The learned counsel appearing for the petitioner would submit that the petitioner joined the service in Police Department in the year 1984 as Police Constable and was promoted as Sub-Inspector of Police in the year 1997 and was further promoted as Inspector of Police in the year 2006. He would

further submit that the respondent filed a private complaint before the learned Judicial Magistrate-III, Vellore District as against the petitioner and seven others stating that he was arrested on 30.11.2013 for the offence of theft and remanded to judicial custody on 01.12.2013 in connection with Crime No.938 of 2013 for the offence under Section 379 of IPC in Gudiyatham Town Police Station, Vellore District; Crime No.318 of 2013 for the offence under Sections 380, 457 of IPC in Pernambut Police Station, Vellore District and in Crime No.336 of 2013 for the offence under Sections 380, 457 of IPC in Pernambut Police Station, Vellore District.

5.The learned counsel appearing for the petitioner would further submit that it is alleged in the complaint that in between 30.11.2013 and 01.12.2013, the respondent was taken to several Police Stations and his belongings namely titan watch, cell phone 2 nos., cash of Rs.4,500/- and his pocket diary were taken by the Police and after his release from judicial custody after obtaining bail, only titan watch and cell phone 2 nos. belonging to him were returned and the cash and pocket diary were not returned. It is further alleged that he was tortured by the Police.

6.The learned counsel appearing for the petitioner would further submit that the respondent himself has admitted that he was arrested in connection with three cases. During the course of arrest, the belongings of the respondent were seized by drawing seizure mahazer and after enlargement on bail, the seized properties were handed over to the respondent. Even then, the respondent has filed the complaint as against the petitioner and others as if he was tortured by the Police Officials. He would further submit that there is no specific allegation against the petitioner in the complaint.

7.The learned counsel appearing for the petitioner would further submit that the petitioner is a public servant and being an Investigating Officer, he has done his duty and has not committed any offence as alleged by the defacto complainant. Accordingly, he prayed for allowing the criminal original petition.

8.This Court also heard the submissions made by the learned counsel appearing for the respondent and perused the materials available on record.

9.Perusal of complaint discloses that no specific allegation is made against this petitioner. There is specific allegation only as against one Umapathy. Whether the persons arrayed as accused have tortured the respondent or not is a triable issue which has to be decided only after trial and not before this Court in a petition filed under Section 482 of

Cr.P.C.

10.However in the present case the petitioner is the Inspector of Police and the allegation made against him is that he tortured the defacto complainant. However, no proof is placed before this Court in the form of accident register or wound certificate to substantiate the same.

11.In view of all the above, I have no hesitation to allow this criminal original petition. This criminal original petition is accordingly allowed and the proceedings in C.C.No.7 of 2014 on the file of the learned Judicial Magistrate-III, Vellore District, is hereby quashed in respect of this petitioner alone. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate-III,
Vellore District.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.S.P.Arthi, Advocate, S.R.No. 14965

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RSV(CO)
GN(19/03/2020)

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