



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

CrI.O.P.[MD]No.6958 of 2020

and

CrI.M.P(MD) No.3462 of 2020

Yogesh

... Petitioner/Accused No.7

Vs.

1.State represented by

The Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni District.
(in Crime No.1025/2019)

... Respondent/Complainant

2.S.Thamaraikannan,

Sub-Inspector of Police,
Bodinayakkanur Town Police Station,
Theni District.

... Respondent/Defacto Complainant

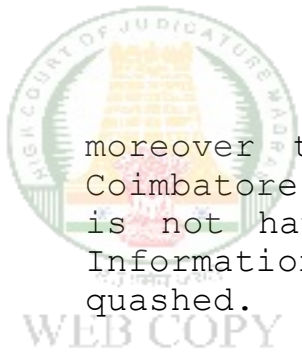
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.1025/2019 on the file of the first respondent and quash the same as against the petitioner/Accused No.7 herein.

For Petitioner : Mr.P.Krishnasamy
For R-1 : Mr.S.Chandra Sekar,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the First Information Report registered in Crime No.1025 of 2019 for the offences punishable under Sections 20, 25(1), 25(1A) of Arms Act and 120(b), 147, 148 of I.P.C on the file of the first respondent.

2.The learned counsel appearing for the petitioner would submit that on the date of occurrence, the respondent police did not receive any complaint from the person who was managing the room in which the alleged accused were staying. As far as this case is concerned, the police has not recovered any weapon and



moreover the petitioner is an Engineering Student studying in Coimbatore. Therefore, the case registered against the petitioner is not having any *prima facie* evidence and the impugned First Information Report registered in Crime No.1025 of 2019, is to be quashed.

3.Per contra, the learned Additional Public Prosecutor appearing for the respondents would submit that initially during the time of occurrence, the petitioner and nine other persons joined together with deadly weapons with an intention to commit the offence. Only for the reason that the third party is not willing to lodge any complaint for the petition mentioned occurrence, the Sub Inspector of Police, Bodinayakkanur Town Police Station, *suo motu* lodged a complaint and registered a case. According to him, the investigation is in threshold stage and therefore, it is not the time to quash the First Information Report as against the petitioner herein.

4.Upon considering the arguments advanced by the learned counsel appearing on either side, initially at the time of registering the case, the offence punishable under Sections 147, 148 of I.P.C r/w. Section 20 of Arms Act 1955 has been registered against the petitioner. Subsequent to that, during the time of investigation, the Section of law has been altered into Sections 20, 25(1), 25(1A) of ARMs Act and 120(b), 147, 148 of I.P.C. Registration of the case based on the complaint given by the Police Officer, is not a ground for quashing the First Information Report. The validity of the complaint given by the Police Officer has to be checked only at the time of trial as to whether the same is within the provision of law or not. In otherwise, it is not in dispute on either side that during the time of occurrence some dangerous weapons were recovered through the accused, particularly, in a room in which all are assembled, in fact the same was situated in Bodinayakkanur. Therefore, the said circumstance shows that if really the petitioner is an innocent, there is no necessity for him to assemble with the persons who are having dangerous weapons. The intention of the petitioner has to be identified only at the time when the trial is proceeded and otherwise praying to quash the First Information is unreasonable.

5.At this juncture it is relevant to see the judgment of our Hon'ble Apex Court in the case of **SAU. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others in Crl. Appeal No.255 of 2019**, wherein our Hon'ble Apex Court has held as follows :

"Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations, set out in the complaint do not constitute the



offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same."

So applying the said principle set out by the Hon'ble Apex Court, to the case in hand, the averments found in the First Information Report have constituted the cognizable offence and therefore, the grounds raised by the petitioner are devoid of merits.

6.In view of the above discussions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni District.

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

CrI.O.P.[MD]No.6958 of 2020
12.08.2020

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