



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.08.2020**

CORAM:

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

Crl.O.P.[MD]No.7920 of 2020
and
Crl.M.P.(MD)No.3768 of 2020

Arun Pothiraj : Petitioner/Sole Accused
Vs.

1. The State rep.by
The Inspector of Police,
Thallakulam Police Station,
Madurai City.
(Crime No.1144 of 2029) : 1st Respondent/Complainant

2.Mathu Kumar : 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of FIR in crime No.1144 of 2019 on the file of the respondent No.1 police station and quash the same as illegal.

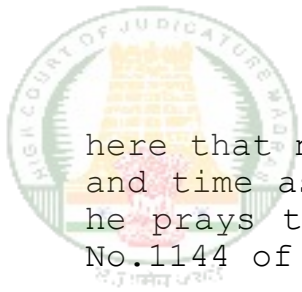
For Petitioner : Mr.V.Kathirvelu, Senior Counsel
for Mr.S.M.A.Jinnah

For R-1 : Mr.APG.OHM.Chairma Prabhu,
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to call for the records pertains to the First Information Report registered in crime No.1144 of 2019 on the file of the first respondent police station and quash the same as illegal.

2.The learned counsel appearing for the petitioner would submit that the second respondent lodged a false complaint against the petitioner with an intention to harass the petitioner. The averments found in FIR clearly disclosed the fact that the second respondent narrated the concocted story against the petitioner. The allegations levelled by the second respondent against the petitioner, are baseless. He would further submit that the first respondent acted in a biased manner and it is pertinent to point out



here that no averments and occurrence have been made out on the date and time as alleged in the First Information Report. Accordingly, he prays to quash the First Information Report registered in Crime No.1144 of 2019.

WEB COPY

3.The learned Government Advocate appearing for the first respondent would submit that the alleged occurrence had happened in the Police Station. At the time of occurrence, the petitioner was came into the Thallakulam Police Station in a drunken mode and abused the Police Officer by using filthy language. Only in the said circumstances, the respondent police registered a case against the petitioner.

4.Upon considering the arguments advanced by either side, it is not in dispute that the alleged occurrence had happened inside the premises of the police station. Further, the content of the First Information Report disclosed the fact that during the time of occurrence, the petitioner with an intention to see one Poominathan, who was secured by the police for another one case and thereafter for the reason that the petitioner is refused to see the said Poominathan the petitioner herein by using the abusive words, caused insult to the defacto complainant and others. So the said alleged occurrence clearly constitutes the cognizable offence. In the said circumstances, the circumstance now indicated by the petitioner is not relevant for considering the prayer sought for by the petitioner.

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 in this case, the allegation levelled against the petitioner made out a prima facie case for cognizable offences. Hence, the prayer sought for by the petitioner cannot be granted at this stage. Therefore the petition filed by the petitioner is devoid of merits. However, since the case has been registered in the year 2019, it would be appropriate to direct the first respondent police to complete the investigation and file a final report within a period of two weeks from the date of receipt of a copy of this order.



6. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (Records)

// 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,
Thallakulam Police Station,
Madurai City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.[MD]No.7920 of 2020
18.08.2020

CS: 02.09.2020 3P 3C