



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2020**

CORAM:

WEB COPY

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

CrI.O.P.[MD]No.8340 of 2020

and

CrI.M.P(MD) No.3950 of 2020

Kasiviswanathan

... Petitioner

Vs.

1.The Assistant Commissioner of Police,
Palayamkottai, Tirunelveli City,
Tirunelveli.

2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City, Tirunelveli.
(Crime No.62 of 2020)

... Respondents 1 &2/
Complainant

3.Bose

... 3rd Respondent / De facto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.62 of 2020 on the file of the second respondent police and to quash the same in so far as the petitioner/Accused.

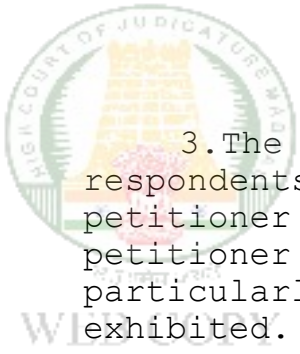
For Petitioner : Mr.J.Ashok

For R-1 and R-2 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate

O R D E R

This criminal original petition has been filed seeking the relief to quash the First Information Report registered in Crime No.62 of 2020 on the file of the second respondent police.

2.The learned counsel appearing for the petitioner would submit that as per the case of the prosecution the alleged occurrence had happened on 22.03.2020. He would further submit that on the date of occurrence, the petitioner was taking treatment in Apollo Hospital, Madurai. Further in order to prove the same, he had produced a copy of the discharge summary issued by the Apollo



3.The learned Additional Public Prosecutor appearing for the respondents 1 and 2, on instructions, would submit that though the petitioner is having a good case, the documents relied on by the petitioner would have been tested only during the time of trial, particularly when at the time, the said documents have been exhibited.

4.Upon considering the rival submission made by the learned counsel appearing on either side, it is true that the document relied on by the petitioner reveals the fact that the petitioner was taking treatment on the date on which the alleged occurrence had happened and to prove the same, the document which is relied on by him has to be marked as exhibits. As far as this case is concerned, the investigation is in threshold stage and the respondent has not completed the investigation. So it is not the time to decide the validity of the document now relied on 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, though the petitioner is having a good case and the ground raised by the petitioner may be proved during the time of trial, in otherwise, it is not the time to consider the same. However, the second respondent/Investigation Officer is directed to complete the investigation as early as possible.

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

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Assistant Commissioner of Police,
Palayamkottai,
Tirunelveli City, Tirunelveli.
- 2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City, Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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