



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD)No.15296 of 2016

and

Crl.M.P.(MD)Nos.7174 and 7175 of 2016 and 678 of 2020

K.Kanthavel

...Petitioner/Accused

vs.

1.State Represented by
The Sub-Inspector of Police,
Kenikarai Police Station,
Ramanathapuram,
Ramanathapuram District.

...1st Respondent/Complainant

2.Sethuraman

... 2nd Respondent/Defacto
Complainant

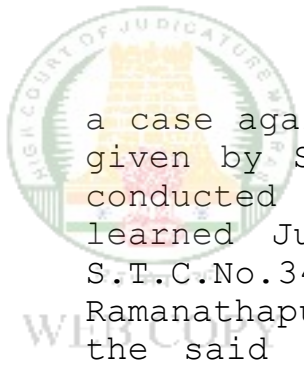
PRAYER: Criminal Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned proceedings in S.T.C.No.34 of 2014, on the file of the learned Judicial Magistrate No.II, Ramanathapuram and quash the same.

For Petitioner : Mr.M.Boopathi Pandian
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)
For R2 : No Appearance

ORDER

This petition is filed under Section 482 of Cr.P.C., to quash the proceedings in S.T.C.No.34 of 2014, pending on the file of the learned Judicial Magistrate No.II, Ramanathapuram.

2.According to the petitioner, the case has been foisted to wreak vengeance by Jeyabalan, Sub-Inspector of Police, Kenikarai Police Station, Ramanathapuram District, since the petitioner had earlier made a complaint on 25.11.2013 to the Superintendent of Police, Ramanathapuram alleging custodial torture by the said Jeyabalan. The case of the petitioner is that he and his neighboring resident/Sethuraman, were not in good terms and there was frequent quarrel among them. When he gave complaint to the Kenikarai Police Station, the Sub-Inspector of Police-Jeyabalan was indifferent and refused to accept his complaint. Hence, he made complaint to the Superintendent of Police about the indifferent attitude of Jeyabalan/Sub-Inspector of Police on 11.11.2013. On the very same day, knowing that the petitioner has approached the senior officials, the said Jeyabalan has registered



a case against the petitioner with vengeance using false complaint given by Sethuraman in Crime No.478 of 2013. Investigation was conducted in the case and final report was filed before the learned Judicial Magistrate, which has been taken on file in S.T.C.No.34 of 2014, by the learned Judicial Magistrate No.II, Ramanathapuram. In this petition, the petitioner seeks to quash the said final report on the ground that there is a specific allegation against the investigation officer regarding his ulterior motive and fabricated document filed by him.

3.The learned counsel would also rely upon the Judgment of the Hon'ble High Court and the Hon'ble Supreme Court, wherein, it has been observed that in all fairness the complainant should not be the investigation officer in the case.

4.Heard the counsels. Records perused.

5.Though the informant is one Sethuraman and the complaint was registered by Jeyabalan/Sub-Inspector of Police and investigated, since there is some material to indicate that the petitioner had already made complaint about the partial attitude of Jeyabalan/Sub-Inspector of Police and that complaint was enquired by the Superintendent of Police, there are some material to infer that the investigation done by Jeyabalan and the final report is incomplete and misdirected.

6.In order to meet the ends of justice and to prevent abuse of power, this Court invoke powers under Section 482 of Cr.P.C., and directs the Superintendent of Police, Ramanathapuram District, to entrust the further investigation of the case to a competent officer not below the rank of Deputy Superintendent of Police and file the final report. The report on the further investigation should be completed within a period of forty five days (45) from the date of receipt of a copy of this order. Till then, the learned Judicial Magistrate No.II, Ramanathapuram, shall not proceed with S.T.C.No.34 of 2014.

7.With the above directions, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrate No.II,
Ramanathapuram.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.The Sub-Inspector of Police,
Kenikarai Police Station,
Ramanathapuram, Ramanathapuram District.

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

+1 CC to M/s.M.BOOPATHI PANDIYAN, Advocate (SR-11512[F] dated
13/03/2020)

Crl.O.P. (MD)No.15296 of 2016
11.03.2020

sjj
AE/12.05.2020/3P/6C