



WEB COPY

Crl.O.P.(MD).No.21671 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD).No.21671 of 2016

and

Crl.M.P.(MD).Nos.11144 and 11145 of 2016

A.Ramesh Kumar

Vs

... Petitioner

1. The State through
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

2.Mohana Ayer
Sub-Inspector of Police,
Kottar Police Station,
Kanyakumari District.

3.Sankar Kannan
Inspector of Police,
Kottar Police Station,
Kanyakumari District.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records connected with the case in P.R.C.No.14 of 2015 on the file of the learned Judicial Magistrate No.2, Nagarcoil, in Crime No.322 of 2014 on the file of the respondent No.1 and quash the same.

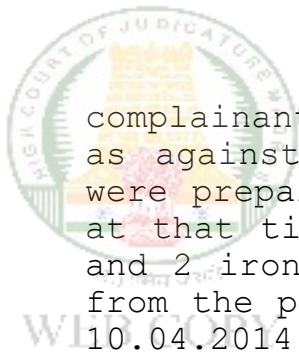
For Petitioner : Mr.R.Alagumani

For 1st Respondent : Mr.KR.Bharathi Kannan
Government Advocate (Crl Side)

ORDER

This petition has been filed to quash the proceedings in P.R.C.No.14 of 2015 on the file of the learned Judicial Magistrate No.2, Nagarcoil, in Crime No.322 of 2014 on the file of the first respondent, as against the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner has filed a complaint before the State Human Rights Commission against the respondents in S.H.R.C.No.2672 of 2014 and S.H.R.C.No.2703 of 2014 and the same were allowed and directed the respondents to pay a compensation to the petitioner and other



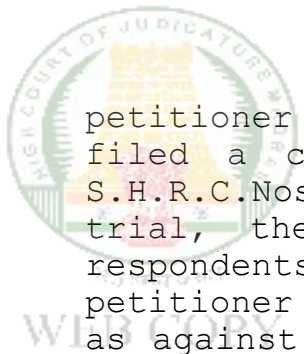
complainants. Therefore, the present false complaint has been filed as against the petitioner alleging that the petitioner and others were preparing to commit robbery in Harris Nadar jewellery shop and at that time, the police officials seized 2 torch lights, 2 knives and 2 iron rods. He further submitted that the weapons were seized from the petitioner and other accused in the scene of occurrence on 10.04.2014 at 3.30 p.m. Whereas, the seizure mahazar clearly revealed that it was prepared at 3.30 a.m, with crime number, penal provisions and the petitioner have already signed in it. He further submitted that entire proceeding has been initiated, only due to wreck vengeance as against the petitioner and it cannot be sustained as against the petitioner.

3.The learned Government Advocate (Crl. Side) appearing for the first respondent Police submitted that on 10.04.2014 the respondent along with his team conducted search in the limits of Kottar Police Station at Anathai Madam, at that time, they had seen that the petitioner and others sitting in a circle and also wherein possession of 2 torch lights and 2 knives and 2 iron rods. When the first respondent and his team kept a watch upon them, after hiding himself behind a wall and he heard that when the petitioner and other were preparing to commit robbery in Haris Nadar Jewellery shop. At that time the police officials surrounded the petitioner and others and seized knives and other materials under cover of Mahazar and registered the case in Crime No.322 of 2014 for the offence under Section 399 of IPC. He further submitted that the recovery was made and materials were collected to attract offence under Section 399 of IPC as against the petitioner. Therefore, he prayed for dismissal of quash petition.

4.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the first respondent Police.

5.Totally there are six accused in this case, in which, the petitioner arraigned as sixth accused. The second respondent has registered a case in Crime No.322 of 2014 for the offence under Section 399 of IPC and after completion of investigation, the final report has been filed and the same has been pending committal in P.R.C.No.14 of 2015 on the file of the Judicial Magistrate No.2, Nagarcoil and thereafter, the same has been taking cognizance in S.C.No.10 of 2019 on the file of the Chief Judicial Magistrate, Kanyakumari District, and it is pending trial.

6.On perusal of the materials available on records, it is seen that on 09.04.2014, when the petitioner returned home for lunch and his friends visited him after long time, the petitioner arranged food for all of them and when they about to eat the same, the respondent police along with his officials have entered into the house and assaulted them and also forcibly taken the



petitioner and others. Therefore, the petitioner and others have filed a complaint before the State Human Rights Commission in S.H.R.C.Nos.2672 of 2014 and 2703 of 2014 and after conducting trial, the State Human Rights Commission found guilty of the respondents herein and ordered compensation of Rs.3 Lakhs to the petitioner herein and also recommended to take departmental action as against the respondents for their grave misconduct and lapses. In order to wreck vengeance, the respondent has foisted a false case as against the petitioner and others alleging that they have prepared to commit robbery in Harris Nadar jewellery shop. It is also seen that except the police official no independent witnesses were examined and no evidence to prove the charge as against the petitioner and others.

7.As rightly pointed out by the learned counsel appearing for the petitioner, due to wreck vengeance as against the petitioner, a false complaint has been foisted, in order to escape from the clutches of law. Therefore, the entire proceedings as against the petitioner is liable to be quashed.

8.Accordingly, this criminal original petition stands allowed and the case in P.R.C.No.14 of 2015 on the file of the learned Judicial Magistrate No.2, Nagarcoil, is quashed. Consequently, the connected Criminal Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

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Sub Assistant Registrar(CS)

vsg

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 Judicial Magistrate No.2,
Nagarcoil.
- 2.The Chief Judicial Magistrate,
Kanyakumari District.



3.The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

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

+1 CC to M/s.R. ALAGUMANI, Advocate (SR-20426[F] dated 16/10/2020)

Crl.O.P.(MD).No.21671 of 2016
and
Crl.M.P.(MD).Nos.11144 and 11145 of 2016

14.10.2020

SR(CO)
NR (30/11/2020) 4P : 6C