



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2020

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P(MD)No.5539 of 2017

and

CrI.M.P(MD)Nos.3955 and 3956 of 2017

K.Mona @ Monalison

... Petitioner/Accused No.4

Vs

1.The State represented by

The Inspector of Police,
Sivagangai Nagar Police Station,
Sivagangai District.

[Crime No.812 of 2015] ...1st Respondent/Complainant

2.Illanchezian

... 2nd Respondent/Defacto complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.285 of 2016, on the file of the learned Judicial Magistrate Court No.1, Sivagangai, in Crime No.812 of 2015, dated:16.11.2015, on the file of the Respondent No.1 Police Station, and quash the same as illegal as against this petitioner.

For Petitioner : Mr.I.Pinaygosh

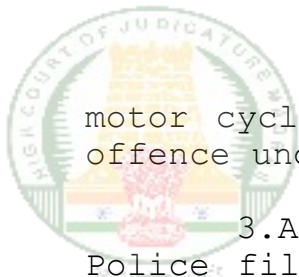
For Respondent : Mr.K.K.Ramakrishnan,

No.1 Additional Public Prosecutor

ORDER

This petition has been filed by the Accused No.4 in C.C.No.285 of 2016 pending on the file of the learned Judicial Magistrate No.1, Sivagangai to quash the charge sheet pending against him in C.C.No.285 of 2016.

2.The first respondent Police registered a case against this petitioner and three others in Crime No.812 of 2015 on 16.11.2015 that on receipt of secrete information, the respondent police have conducted raid in the building of RDM College, Sivagangai and at that time the petitioner and three other accused were found armed with deadly weapons and they were in preparation for committing certain offence. The respondent Police recovered those weapons and a



motor cycle and registered a case in Crime No.812 of 2015 for the offence under Section 399 IPC and Section 20 r/w 30 of Arms Act.

3.After completing the investigation, the first respondent Police filed a final report as against this petitioner and others and this petitioner is now facing the charge before the trial Court for the offence under Section 399 IPC and section 20 r/w 30 of Arms Act.

4.In support of this petition, the learned Counsel for the petitioner submits that this petitioner is a MSc., graduate and meritorious student and he has been falsely implicated in this case, as if there was a preparation for committing the offence, when there was no offence at all. Moreover, there is no bad antecedent as against this petitioner. The learned Counsel further submits that all witnesses in this case are Police Officials and the complainant.

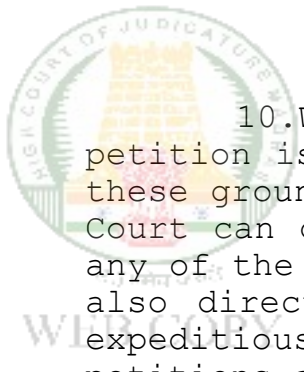
5.Per contra, the learned Additional Public Prosecutor submits that on the date of occurrence on receipt of a secret information, the first respondent Police have conducted a raid in the place of occurrence and the respondent Police has recovered the deadly weapons from the petitioner and other accused and they were in preparation to commit certain offence. These facts can be decided only during the trial and it is not a case for quashing the complaint in limine.

6.According to the learned Additional Public Prosecutor, there is no previous case as against this petitioner. However, the co-accused are having several criminal cases to their credit.

7.Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the available records.

8.Though the petitioner is not having any bad antecedent and also an MSc., Graduate, the respondent Police have shown certain recoveries from the petitioner. Whether there was a preparation with the alleged weapons recovered on the date of occurrence, to commit any offence or not, can be decided only during the trial and therefore, this Court is not inclined to quash the charge sheet at this stage.

9.However, considering the fact that this petitioner is an MSc., Graduate and a meritorious student and there is no bad antecedent as against this petitioner and the allegation that there was a preparation to commit an offence, this Court dispenses with the personal appearance of the petitioner during the trial and he shall appear as and when required by the trial Court.



10. With the above observations, this criminal original petition is dismissed with a liberty to the petitioner to raise all these grounds in this petition, before the trial Court and the trial Court can decide the same independently without being influenced by any of the observations made in this petition and the trial Court is also directed to proceed with the trial and conclude the same as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate Court No.1,
Sivagangai.
2. The Inspector of Police,
Sivagangai Nagar Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.I.PINAYGASH, Advocate (SR-3133[F] dated 27/01/2020)

Cr1.O.P(MD)No.5539 of 2017
24.01.2020

CS (21.08.2020) 3P 5C