



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.01.2020
CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P. (MD).No.19454 of 2019
and
Crl.M.P. (MD) No.11413 of 2019

1.Vengatesh
2.Vignesh

.. Petitioners/Accused Nos.1&2
Vs.

State rep. By,
1.The Inspector of Police,
Theppakulam Police Station,
Madurai City.
Crime No.247 of 2017.

.. 1st Respondent/Complainant

2.Sakthimanikandan,
The Sub Inspector of Police,
Theppakulam Police Station,
Madurai City.

.. 2nd Respondent/Defacto Complainant

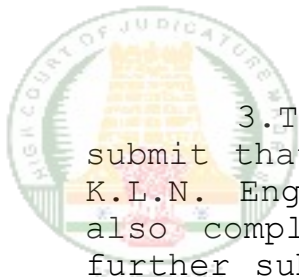
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.247 of 2017 on the file of the first respondent police and quash the same.

For Petitioners : Mr.S.Vinoth
For 1stRespondent : Mrs.S.Bharathi,
Government Advocate (Crl. Side)

O R D E R

This petition has been filed to quash the proceedings in Crime No.247 of 2017 on the file of the first respondent police.

2.The case of the prosecution is that on 10.03.2017 at 22.45 hours, when the second respondent, who is the Sub Inspector of Police of the first respondent was on patrol duty along with his police official, the petitioners were found to have been in possession of crackers and bursting it standing in front of the City Tower, Kamarajar Salai without any proper permission and used crackers for the temple festival. Since the petitioners and other persons caused nuisance to the public and traffic, a case in Crime No.247 of 2017 has been registered by the first respondent for the offence under Section 286 of IPC.



3.The learned counsel appearing for the petitioner would submit that the first petitioner has completed his M.C.A. Course at K.L.N. Engineering College, Madurai and the Second petitioner has also completed his B.E. Course with the same college. He would further submit that both the petitioners are graduates and they are working at Madurai. They were in the crowd along with other devotees celebrating the festival and were watching the fireworks and at that time the respondent police had asked them to give their names. Strangely the second respondent registered the case against them and after completing investigation filed the final report on the same day. He would further submit that the Honourable Apex Court has held that a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and investigator must not be the same person. Apart from that no other independent witnesses have been examined by the prosecution. In this case the second respondent had registered the case conducted a perfunctory investigation and filed the final report on the same day.

4.In support of his contention, the learned counsel appearing for the petitioner has relied upon the decision of the Honourable Apex Court in Mohan Lal Vs. State of Punjab reported in 2018 (4) MLJ (Crl) 244 (SC), wherein at paragraph No.25, it has been held as follows:

25.In view of the conflicting opinions expressed by different two judge benches of this Court, the importance of a fair investigation from the point of view of an accused as a guaranteed constitutional right under article 21 of the Constitution of India, it is considered necessary that the law in this regard be laid down with certainty. To leave the matter for being determined on the individual facts of a case, may not only lead to a possible abuse of powers, but more importantly will leave the police, the accused, the lawyer and the courts in a State of uncertainty and confusion which has to be avoided. It is therefore held that a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and the investigator must not be the same person. Justice must not only be done, but must appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof.

5.The learned Government Advocate (Crl. Side) appearing for the first respondent police would submit that the second respondent is the Inspector of Police and he has registered the case conducted



investigation and filed final report on the same day before the Judicial Magistrate-I, Madurai. She would further submit that though the final report has been filed, the same is pending for taking cognizance.

6.Considering the facts and circumstances of the case and also the nature of allegations alleged in the First Information Report is very trivial in nature and in the opinion of this Court the investigation is biased as such, the pendency of the FIR would not serve any purpose.

7.In view of the above, First Information Report in Crime No.247 of 2017, is hereby quashed and this Criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

1.The Judicial Magistrate-I,
Madurai.

2.The Inspector of Police,
Theppakulam Police Station,
Madurai City.

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

+1 CC to Mr.S.VINOTH, Advocate (SR-3489[F] dated 28/01/2020)

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