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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.10.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.16396/2016 & Crl.MP.No.7965/2016

[Video Conferencing]

S.M.Amir Abbas

... Petitioner/Accused

Versus

1.The State by

The Sub Inspector of Police

Vikravandi Police Station [Law & Order]

Villupuram District.

2.Mohammed Sheriff

... Respondents

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in STC.No.68/2016 pending on the file of the learned Judicial Magistrate No.2, Villupuram, Villupuram District, and quash the charge sheet pending against the petitioner.

For Petitioner

:

Mr.S.Silambuselvan

For R1

:

Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

- (1) Heard Mr.S.Silambuselvan, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the 1st respondent.
- (2) The present petition has been filed seeking to quash further proceedings in STC.No.68/2016 which was pending on the file of the learned Judicial Magistrate No.2, Villupuram and in the course of the present petition, the said case has been transferred to the file of the learned Judicial Magistrate, Vikravandi, and renumbered as STC.No.43/2020.
- (3) A complaint had been lodged by the 2nd respondent stating that the petitioner herein had through his mobile phone bearing No.9976994454, called the phone of the 2nd respondent herein bearing No.9486935316 and threatened to murder the 2nd respondent. This telephone call was on 20.04.2013 at about 9.30 p.m. Complaint had been given on 21.04.2013. FIR came to be registered on 12.06.2013 at



about 10.00 p.m., nearly after about 2 ½ months. Thereafter, a Final Report had been filed, which had been taken cognizance by the learned Judicial Magistrate No.2, Villupuram.

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- (4) Among the documents filed in the Final Report, one of the documents is the Rough Sketch indicating houses of the petitioner and the 2nd respondent. This will not help the prosecution in any manner whatsoever. The details of the call records have also not been produced as a document. The 2nd, 3rd and 4th witnesses are to speak about the alleged phone call. It is clear that their evidence will only be hearsay evidence. They neither made the phone call nor received the phone call. They only received information about the said phone call from the 2nd respondent/defacto complainant. Therefore, the evidence of 2nd, 3rd and 4th witnesses can never improve the case of the prosecution.
- (5) The 5th and 6th witnesses listed in the Final Report have signed as witnesses in the Rough Sketch prepared as aforesaid, showing the places of the houses of the petitioner and the 2nd respondent herein. The 7th witness is the Sub Inspector of Police who had originally given CSR number and the 8th witness is the Investigating Officer.
- (6) In the absence of even the call details of the two mobile numbers, it is highly improbable that the prosecution can establish that the telephone call was even made by the petitioner herein to the 2nd respondent.
- (7) The matter has been pending for the past five years with respect to a phone call which had taken place nearly about more than eight years.
- (8) I hold that nothing substantial would flow out of trial proceedings which would only be a futile exercise.
- (9) In the result, the Criminal Original Petition stand allowed and the further proceedings in STC.No.68/2016 which was pending on the file of the learned Judicial Magistrate No.2, Villupuram, now transferred to the file of the learned Judicial Magistrate, Vikravandi, and renumbered as STC.No.43/2020 are quashed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

AP



To

1. Judicial Magistrate No.2
Villupuram.

2. The Sub Inspector of Police
Vikravandi Police Station [Law & Order]
Villupuram District.

3. The Public Prosecutor
High Court, Madras.

COPY TO:-

The Judicial Magistrate,
Vikravandi.

+1cc to Mr.S.Silambuselvan, Advocate, S.R.No.52699

Cr1.OP.No.16396/2016

SJ(CO)
GN(15/11/2021)