



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.8159 OF 2018

AND

CRL.M.P.NO.4194 OF 2018

Ashish Gupta

... Petitioner/Accused

.Vs.

1. The Inspector of Police,
T1, Ambattur Police Station,
Chennai.
Crime No.432/2018

2. Harish Gupta

... Respondents/Complainant

PRAYER:-

Criminal Original Petition filed under Section 439 Cr.P.C.,
to call for the records of FIR in Crime No.432 of 2018 pending
investigation on the file of the first respondent police and to
quash the same against the petitioner herein.

For Petitioner : Mr.S.Manuraj

For Respondents : Mr.C.E.Pratap - R1
Government Advocate
(Crl. Side)

Mr.Antony - R2
For M/s.C.Deepak Kumar

O R D E R

This petition has been filed to quash the proceedings in
Crime No.432 of 2018 pending investigation on the file of the
first respondent police.



2. The defacto complainant is the ex-Correspondent of P.J.Gupta's High School and Primary School, Ambattur, which is a Government Aided Private School and former member of the Venkatapuram Cultural association situated at Ambattur, Chennai and he was removed from the Association prior to the year 2009. The defacto complainant, suppressing his removal from the service, filed a complaint before the respondent police against the petitioner as if the petitioner, without holding any power, demolished the building in P.J.Gupta's School and taken the valuables worth about Rs.50,00,000/-. Based on the complaint, the respondent police registered a case against the petitioner. For quashment of the said complaint, the present petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that the petitioner is the present Correspondent of P.J.Gupta Higher Secondary School and Secretary of the Venkatapuram Cultural Association. The petitioner was elected by the members of the Association as per the memorandum of the said Association. The learned counsel further submitted that there was a civil dispute between the petitioner and the defacto complainant. Earlier, the defacto complainant filed a restoration petition in I.A.No.386 of 2017 in O.S.No.255 of 2013 and the same was dismissed. Challenging the same, the defacto complainant filed CRP.No.1381 of 2021 before this Court, wherein the defacto complainant has stated that the petitioner has managed the entire P.J.Gupta Primary and Higher Secondary School and also Venkatapuram Cultural Association. Suppressing all these facts, the defacto complainant lodged the above said complaint. However, the petitioner demolished the building in the capacity of Correspondent of the School and Secretary of the Association. The defacto complainant has no connection with the school as well as the association. The learned counsel further submitted that the petitioner may be permitted to place all the relevant documents before the respondent police before concluding the investigation as directed by this court in Crl.O.P.No.17761 of 2019. The learned counsel further submitted that the present quash petition has been filed much prior to the direction petition filed by the defacto complainant. The learned counsel prays to allow this quash petition.

4. The learned counsel for the second respondent/defacto complainant submitted that the defacto complainant had already filed a petition in Crl.OP.No.17761 of 2019 to direct the respondent police to enquire and investigate the case in Crime No.432 of 2018. This Court, vide order dated 08.07.2019, issued a direction to the respondent police either file a final report or closure report, as the case may be, within a period of three months. But, the respondent has not taken any steps till date. Hence, the learned counsel prays to dismiss this petition.



WEB COPY

5. The learned Government Advocate (Crl. side) submitted that as per the directions of this Court, notice will be issued to the petitioner and after hearing the petitioner, if cognizance is made out, the respondent police will final a final report, or else, the case will be dropped as 'mistake of fact'.

6. Heard the learned counsel for the petitioner and the respondents 1 & 2 and perused the materials available on record.

7. The grounds raised by the counsel for the petitioner are all factual in nature and they require appreciation of evidence, and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Investigating Officer and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the 1st respondent Police.

8. It is now represented by the learned counsel appearing for the petitioner that without going into the merits of the case, it would suffice, if this Court issues direction to the law enforcing agency to expedite the investigation and complete the same as early as possible.

9. In view of the above, this Court directs the petitioner to produce the entire records before the law enforcing agency. After hearing the parties, the law enforcing agency, shall expedite the investigation in Cr.No.432 of 2018 and complete the same and take a decision in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

10. With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rli

To

1. The Judicial Magistrate,
Ambattur.



2. The Inspector of Police,
T1, Ambattur Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Manuraj, Advocate, S.R.No.51872

CRL.O.P.NO.8159 OF 2018 AND
CRL.MP.NO.4194 OF 2018

NR(CO)
PBS/17/11/2021