

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 15.03.2021****CORAM****THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH****Crl.O.P No.3843 of 2021**

P.Kugan

.. Petitioner

Vs.

The State Rep by
Inspector of Police,
B.3, Fort Police Station,
Chennai - 600 009.

. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.28 of 2015 on the respondent police and quash the same.

For Petitioner : Mr.M.Pari
For Respondent : Mr.Mohamed Riyaz
Additional Public Prosecutor

ORDER

On consent given by either side, the main petition itself is taken up for final hearing.

2. The case of the prosecution is that on 18.05.2015, at about 7.30 p.m. one Thirupathi (A2) was found in possession of a cloth bag. When the same was checked, 9 toners were found inside the same. When he was interrogated, he had roped in one Guhan, the petitioner herein. The further case of the prosecution is that the petitioner was not present at the scene of occurrence and he was in touch with Thirupathi only through mobile phone. Based on these allegations, the respondent police registered an FIR in crime No.28 of 2015 for an offence under section of 380 of IPC against the petitioner and the said Thirupathi.

3. Heard the learned counsel for the petitioner and Mr.Mohamed Riyaz, learned Additional Public Prosecutor, appearing on behalf of respondent.

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4. This is a case where the FIR has been registered in the year 2015. The FIR has been registered for an offense under Section 380 of IPC. The admitted case of the prosecution is that the toners were stolen from the office premises at Namakkal Kavingar Maligai. On

attracted since it deals with a theft in a dwelling house, which is used for human dwelling or which is used for a custody of a property. In the present case, the place of occurrence was an office and the toner is said to have been stolen from the computer, which was used in the office premises.

5. Even if the allegation made in the complaint are taken as it is, it only attracts an offence under Section 379 of IPC, which is punishable for a maximum period of three years imprisonment.

6. In the present case, the petitioner has been roped in only based on the confession of the said Thirupathi. Admittedly, the petitioner was not in the scene of occurrence, at the time when the incident took place. It is brought to the notice of this Court that the case is still at the stage of FIR and the investigation has not been completed.

7. Taking into consideration the facts and circumstances of the case and also of the fact that there are no prima facie materials against the petitioner and also of the fact that the

offence under Section 379 of IPC is punishable for a maximum imprisonment of three years and in view of the fact the investigation has not been completed and the final report has not been filed and the cognizance of the same is barred under Section 468(2)(c) of Cr.pc, this Court is inclined to interfere with the FIR. No useful purpose will be served in keeping the investigation pending in this case.

8. In view of the above discussion, the FIR in Crime No.28 of 2015, on the file of 1st respondent is hereby quashed. This Criminal Original Petition is accordingly allowed.

15.03.2021

Index : Yes/No
Internet : Yes/No
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N. ANAND VENKATESH, J.

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To

1.The Inspector of Police,
B.3, Fort Police Station,
Chennai - 600 009.

2. The Public Prosecutor,
High Court, Madras.



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