

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.398 of 2017
and Crl MP No.372 of 2017

Khaja @ Khaja Mohideen

...Petitioner/
Accused No.4

-Vs-

1. The State by Inspector of Police,
Pallavaram Police Station,
Chennai 600 043.

..Respondent/
Complainant

2. Shanmugam

..Respondent/
Defacto complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime No.2223 of 2016 on the file of the Inspector of Police, Pallavaram Police Station, Chennai 600 043 and quash the proceedings insofar as it relates to the petitioner.

For Petitioner : Mr.A.Selvendran
For Respondent : Mr.E.Raj Thilak
Counsel for Government
(Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the Crime No.2223 of 2016 on the file of the Inspector of Police, Pallavaram Police Station, Chennai 600 043.

2. The case of the prosecution is that based on the secret information received, the defacto complainant, who is the Sub-Inspector of Police attached to the same police station on 06.11.2016, conducted a surprise check in a dilapidated bungalow situated near Kacheri Malai Kuttai in Old Pallavaram and found that some persons were planning to commit a robbery in a nearby bungalows, where they would get more money and jewels. The defacto complainant arrested four persons out of seven persons and other three accused persons were escaped from that place. An FIR came to be registered against the petitioner along with six other accused person for the alleged offence under Section 399 of IPC. The petitioner herein is arrayed as 4th accused in the above said crime. The petitioner

herein filed this Criminal Original petition seeking to quash the FIR, pending on the file of 1st respondent police.

3. The learned counsel for the petitioner submitted that the entire allegation made against the petitioner is false, frivolous and motivated. The learned counsel submitted that mere assumption will not attract the offence of Section 399 of IPC. The learned counsel further submitted that the respondent police without proper application of mind and appreciation of facts, added the petitioner herein as one of the accused in the above case forgetting the fact that he is the proprietor of S.K.M.Traders and has been submitting income tax returns to the Income Tax Department for each and every assessment year till date, which clearly shows that the petitioner has been arrayed as an accused in the absence of any material against him.

4. When the matter was taken up for hearing during last occasion, this Court directed the learned Government Advocate

to get instructions with regard to details of number of previous case pending against this petitioner. The learned Government Advocate submitted that there is no previous case pending against this petitioner. The learned Government Advocate further submitted that the accused persons were preparing themselves to commit a decoity and due to the timely intervention of the police, the same was prevented.

5. This Court has carefully gone through the submissions made on either side and also perused the materials placed before it.

6. A perusal of the FIR would go to show that the alleged offence has not been taken place and only on the ground of mere suspicion, the petitioner was arrested and further, there is no material to show that the petitioner was involved in such a crime. The FIR has been registered in the year 2016 and till date, no action has been taken by the respondent police to file a Charge sheet and therefore, this Court is inclined to quash the FIR in Crime No.2223 of 2016 pending on the file of the Inspector

of Police, Pallavaram Police Station, Chennai 600 043 and accordingly, the same stands quashed. Consequently, the connected miscellaneous petitions are closed.

27.07.2021

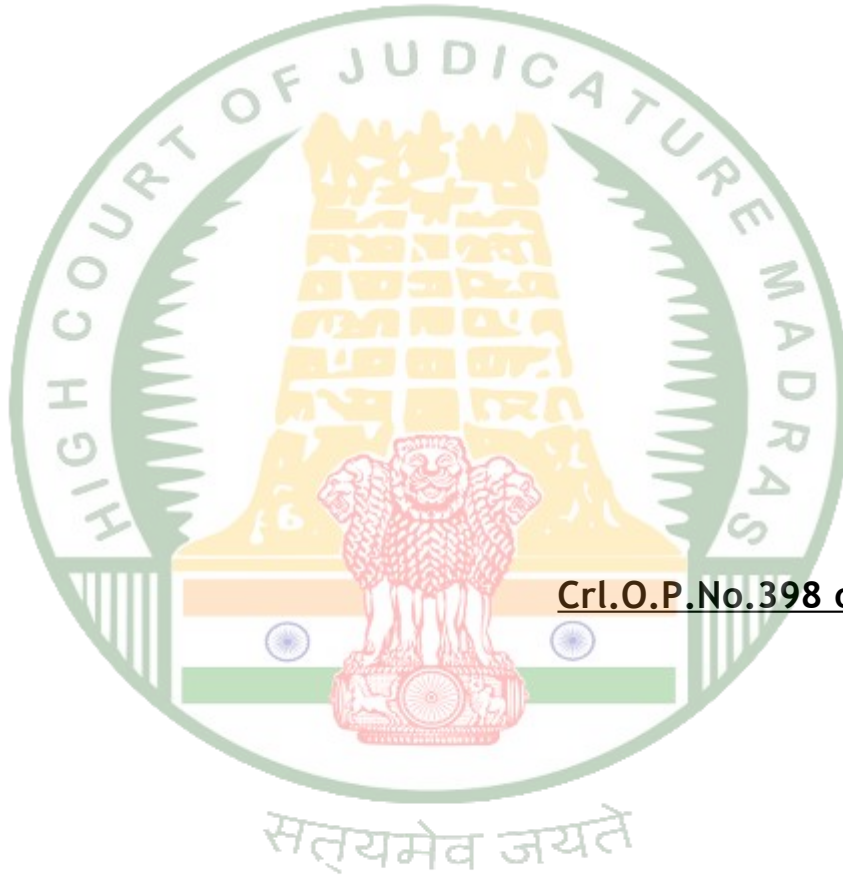
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Index : Yes / No
Internet : Yes / No
To

1. The State by Inspector of Police,
Pallavaram Police Station,
Chennai 600 043.
2. The Additional Public Prosecutor,
High Court of Madras, Chennai.

सत्यमेव जयते
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V.BHAVANI SUBBAROYAN.,J

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