

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15888 of 2020

Basheer Ahamed

.. Petitioner

/versus/

The Inspector of Police,
Airport Police Station,
Chennai.

.. Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondent police to register FIR based on the complaint given by the petitioner on 10.12.2019 and in compliance of the order passed by the learned Judicial Magistrate Court at Alandur in Crl.M.P.No.455 of 2020 dated 26.02.2020.

For Petitioner :Mr.M.Jaikumar

For Respondent :Mr.M.Mohammed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed for a direction to the respondent police to register FIR based on the complaint given by the petitioner on 10.12.2019 in compliance with the order passed by the learned Judicial Magistrate, Alandur, dated 26.02.2020.

2.The respondent police has filed a counter in this case. The relevant portions in the counter are extracted hereunder:

4. The Sub Inspector enquired the House Keeping staff Tvl. Pachiappan and Paramasiyam On 02.01.2020, who were working nearby the Custom office. They stated that the Custom Officer TV.Ashu Goyal and Babu, Superintendent of Customs only enquired the petitioner and they never assaulted the petitioner. He also given requisition to secure the CC TV Footage near the Custom Office, to the Assistant Commandant, Central Industrial Security Force, Airport Security Group, Chennai Airport on 12.12.2019. The Footage was received on 13.12.2019. The CC TV Footage showed the petitioner and two others each carrying a bag and the bag carried by

the petitioner was not scanned by the petitioner but one passenger scanned his bag by the Indigo Security and the other one scanned his bag by Air India Security. The Indigo Security detained the bag of the co-passenger of the petitioner since the bag contained Shark Fins. The petitioner signed his co-passenger to go with his bag and the petitioner stayed near the Indigo Scanner. The other two co-passengers have gone to Singapore by Indigo Flight No.6E53 on the same day. Since the petitioner was standing with the banned Shark Fin Bag the Indigo Security people informed the Customs Office and the Customs Officers came to the SOC and enquired the petitioner in a room.

5. The Sub Inspector of Police further enquired the Customs Intelligence Officer Tr.Ashu Goyal and Tr.Babu, Superintendent of Customs about the incident. They informed that the petitioner was carrying 8 Kgs. of Shark Fins in a bag worth Rs.4,50,000/- and they seized the bag and enquired the petitioner in the presence of independent witnesses Tr. Kappara and Tr.Sathish. The petitioner accepted his guilt that he is involved in his offence to gain money and requested pardon before the officers. The seized shark fins were sent to Wild Life Crime Control Bureau for certification. The Statement of the Customs Intelligence Officer and the Superintendent of Customs were recorded. The petitioner was called for enquiry several times, but he did not appear for enquiry. He not even received the AR Copy opinion after medical examination. Since the allegations given in the complaint against the Customs Officers and the Superintendent of Customs are false the CSR was closed as there is no prima facie case made out against the Customs Officers. The closure report was sent to the petitioner by Registered Post on 21.01.2020. At this stage the petitioner herein had filed CrI.MP.No. 455 of 2020 before the learned Judicial Magistrate I, Alandur, suppressing, the closure of CSR No.169 of 2019 and sought a prayer for registration of FIR in the above complaint of the petitioner. The learned Judicial Magistrate, without giving sufficient opportunity to the respondent in the criminal proceedings had given a direction to the respondent police to register the FIR on 26.02.2020, after receiving the closure report by the petitioner in violation of judgments reported in (1984 CRJ 1334) Prem Nayak VS Anand Mandal of Kolkatta High Court, (1992- CRLJ - 2216) Ram Aadhar Yadav Vs Rama Chandra Mishra (High Court of Alahabad.) CrI.R.C.No. 193 / 2018 dated 16.07.2018 2018-2 TNLR 659 of Madurai Bench of Madras High Court.

6. It is submitted that the petitioner had involved in the smuggling of shark fins and he is a frequent flyer from Chennai to different countries as a carrier carrying banned consignments. If the petitioner's claim is entertained he and his co-passengers would involve in similar activities without any hindrance and the Intelligence Officers would be put to severe hardship and they could not perform their Lawful official duties in a peaceful manner. Hence, it is just and necessary to set aside the order dated 26.02.2020 of the learned Judicial Magistrate-I, Alandur, passed in Crl.M.P.No.455 of 2020.

For the foregoing reasons it is humbly prayed that this Hon'ble Court may be pleased to set aside the order dated 26.02.2020 made in Crl.MP.No.455 of 2020 on the file of the learned Judicial Magistrate-I, Alandur, Chennai and dismiss the above Criminal Original Petition No.15888 of 2020 and thus render justice.

3.Pursuant to the directions issued by this Court, Mr.Rajaram, Inspector of Police of Airport Police Station was present at the time of hearing through Video Conferencing. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that based on the complaint given by the petitioner, it was taken on file in CSR No.165 of 2019 and after enquiry, it was closed on 21.01.2020 and this was informed to the petitioner through registered post. The learned counsel further submitted that the petitioner conveniently concealed this fact and has gone before the Court below and filed an application under Section 156 (3) of Cr.P.C. The learned Additional Public Prosecutor submitted that the Intelligence Officials belonging to Customs had done their duty and no criminal prosecution can be launched against them and there are absolutely no materials to substantiate the allegations made by the petitioner.

4.In view of the above, there shall be a direction to the respondent police to submit the closure report before the learned Judicial Magistrate, Alandur along with the copy of this order. The learned Judicial Magistrate shall receive the report and record the same and withdraw the order dated 26.02.2020 by closing the petition.

5.This criminal original petition is disposed of accordingly.

Sd/-

Assistant Registrar

//True Copy//

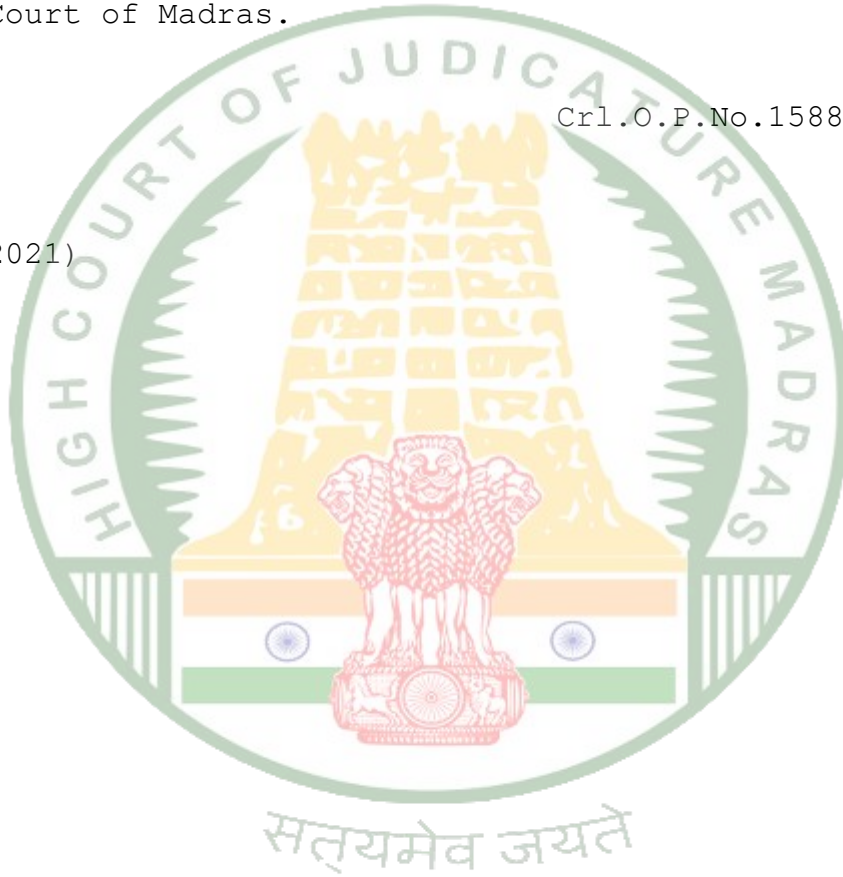
ssr

To

1. The Judicial Magistrate, Alandur.
2. The Inspector of Police,
Airport Police Station,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

Cr1.O.P.No.15888 of 2020

VSN II (CO)
GN(17/02/2021)



WEB COPY