

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.31 of 2017
and Crl.M.P.Nos.30 & 31 of 2017

K.Srinivasa Pandian

... Petitioner/Accused

Vs.

1. The Assistant Commissioner of Police (Crime) West,
i/c. Of Ukkadam Police Station Crime,
R.S.Puram, Coimbatore City,
Coimbatore.

2. The State rep. By the
Sub Inspector of Police,
Ukkadam Police Station,
Coimbatore District.

3. Sundarasamy ... Respondents/Complainant/
Defecto Complainant

Prayer: This Criminal Original Petition filed under Section
482 Cr.P.C. call for the records and quash the charge sheet in
CC. no.433 of 2016 on the file of the learned Judicial
Magistrate-V, Coimbatore.

For Petitioner : Mr.R.Subburaj

For Respondents : Mr.C.Raghavan - R1 & R2
Govt. Advocate (Crl. Side)

ORDER

This petition has been filed to quash the proceedings in
CC. no.433 of 2016, pending on the file of the learned
Judicial Magistrate-V, Coimbatore.

2. The case of the prosecution is that an attempt was
made to pick the pocket of the third respondent while he was
traveling in a bus on 02.02.2015 and the third respondent is
said to have caught the offender red-handed and handed over
him to the Police. Based on the complaint given by the third
respondent, an FIR came to be registered in Crime No.64 of
2015 for an offence under Section 379 of IPC on 02.02.2015
against the petitioner.

3. The petitioner approached this Court seeking to quash the FIR in Crime No.64 of 2015. This Court disposed of the petition in Crl.OP. No.19137 of 2016 by an order dated 26.08.2016 and the order passed by this Court is extracted hereunder:-

'3. On reading of the complaint, there was an attempt to pick the pocket of the second respondent/defacto complainant, while he was traveling in a bus on 02.02.2015 and that the second respondent/defacto complainant and public caught hold of the pick-pocket and hand him over to the police. Thereafter, the Police have registered a case in B12, Ukkadam Police Station, Crime No.64 of 2015 under Section 379 of IPC on 02.02.2015 against K.Srinivasa Pandian, the petitioner herein. To quash which, the petitioner is before this court.

4. Learned counsel for the petitioner submitted that in the disciplinary proceedings Sundarsamy (second respondent/defacto complainant) appears to have given evidence, wherein, he has stated that he does not know who the pick pocket is.

5. Learned counsel contended that the FIR in Crime No.64/2015 is a put up case, on account of the rivalry between two police officials.

6. Be that as it may, when the FIR discloses the commission of cognizance offence, the same cannot be quashed in the light of the law laid down by the Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal 1992 Supp [1] SCC 335. However, taking into consideration the facts and circumstances of this case, it will be in the interest of justice, if the Deputy Superintendent of Police is directed to conduct investigation in Crime No.64 of 2015 and if it is found that the petitioner has been falsely implicated, it is needless to state that the case against him shall be closed. With the above direction the petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.'

4. This Court specifically directed the Deputy Superintendent of Police to conduct the investigation after taking into consideration the peculiar facts of the case. After this order was passed, the petitioner also made a representation on 03.10.2016 by bringing to the notice of the first respondent about the directions issued by this Court. However, a final report came to be filed by the second respondent on 20.10.2016 before the Court below and the Court below had taken cognizance of the final report for an offence under Section 379 of IPC. Aggrieved by the same, the present petition has been filed before this Court.

5. Heard Mr.R.Subburaj, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate

(Cr1. Side) appearing on behalf of respondents 1 & 2. There is no appearance for the third respondent.

6. The learned counsel for the petitioner brought to the notice of this Court the statement given by the defacto complainant during the departmental proceedings and submitted that he was not aware as to who had picked the pocket. This statement made by the third respondent goes against the very basis on which the criminal law was set in motion by the second respondent and that is why this Court while considering the earlier quash petition specifically directed the Deputy Superintendent of Police to conduct the investigation. Such a direction was given to ensure that the petitioner is not falsely implicated in this case. In spite of such a direction, the second respondent has proceeded to conduct the investigation and has laid a final report before the Court below on 20.10.2016. The statements recorded under Section 161 (3) of Cr.P.C. and which has been filed along with the final report pertains to the statements that were purported to have been made much before the order was passed by this Court on 26.08.2016.

7. In the considered view of this Court, the final report that was filed by the second respondent before the Court below is totally unsustainable and it runs contrary to the directions issued by this Court. The fact that the second respondent proceeded to file the final report in such a hurried manner by disregarding the directions issued by this Court, shows that all is not well in the manner in which the investigation had taken place in the present case. Under such circumstances, the continuation of the criminal proceedings against the petitioner will amount to abuse of process of Court and the same requires the interference by this Court.

8. In the result, the proceedings in CC. No.433 of 2016 on the file of the learned Judicial Magistrate-V, Coimbatore, is hereby quashed and this Criminal Original Petition is allowed accordingly.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rli

To

1. The Assistant Commissioner of Police (Crime) West,
i/c. Of Ukkadam Police Station Crime,
R.S.Puram, Coimbatore City,
Coimbatore.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Sub Inspector of Police,
Ukkadam Police Station,
Coimbatore District.

3.The Public Prosecutor
High Court of Madras
Chennai - 600 104.

Copy to:

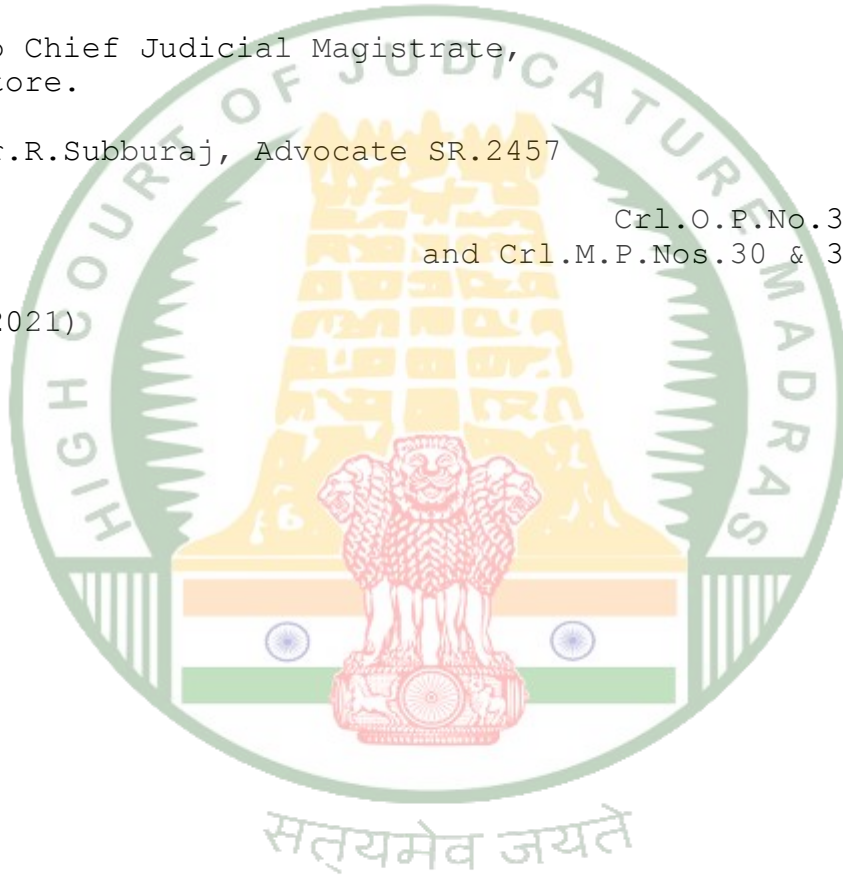
1.The Judicial Magistrate,
Coimbatore -V.

2.-do-Thro Chief Judicial Magistrate,
Coimbatore.

+1cc to Mr.R.Subburaj, Advocate SR.2457

Crl.O.P.No.31 of 2017
and Crl.M.P.Nos.30 & 31 of 2017

AJS (CO)
CB(12/02/2021)



WEB COPY