



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.6677 of 2017
and CRL.M.P.Nos.4888 &4889 of 2017

S.N.Krishnamurthy

... Petitioner/Accused

Vs.

1.The State of Tamil Nadu,
Rep.by its Inspector of Police,
Gudiyatham Police Station,
Gudiyatham, Vellore District.
(Crime.No.687 of 2015).

2.N.Gandhi prasath
(Impleaded the 2nd respondent
as per the order of this Court
dated 05.06.2017 Crl.M.P.No.6807 of 2017
in Crl.O.P.No.6677/2017)

... Respondents / Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code,praying to call for the records on the file of the Judicial Magistrate, Gudiyatham in PRC. No.2 of 2017 pertaining to Crime No.687 of 2015 and quash the same.

For Petitioner : Mr.M.Krishnamoorthy

For Respondents : Mr.R.Kishore Kumar
Government Advocate(Crl.side) for R1
Mr.D.Rajagopal for R2

ORDER

This Criminal Original Petition has been filed to call for the records on the file of the Judicial Magistrate, Gudiyatham in PRC. No.2 of 2017 pertaining to Crime No.687 of 2015 and quash the same.



2. The crux of the prosecution is that the petitioner/accused is the brother of the defacto complainant. Due to a dispute over the property, in order to do away with the defacto complainant, the petitioner made an attempt to run over the defacto complainant using his car bearing Registration No.TN-02-AW-5657. As a result, the defacto complainant fell down and sustained injuries, the same has been witnessed by the witnesses.

3. Learned counsel for the petitioner submitted that the main ground on which the prosecution sought to be quashed is that there is a counter case registered against the defacto complainant. The Police has not filed any connected papers in the counter case in Crime No.687 of 2015. Therefore, it violates the procedures contemplated under Section 566 of the Police Standing Orders. Therefore, the entire final report has to be quashed.

4. In support of his submission, the learned counsel for the petitioner also relied upon the judgments of this Court in CrI.O.P.Nos.25782 and 25789 of 2017 dated 22.11.2019 and CrI.O.P.No.9329 of 2015 dated 24.09.2020.

5. This Court in CrI.O.P.Nos.25782 and 25789 of 2017 has quashed the final report mainly on the ground that Section 566 of Police Standing Orders is not followed.

6. At the outset, I am of the view that merely because the charge sheet papers has not been annexed along with the main charge sheet, that cannot be a ground to quash the entire proceedings while exercising power under Section 482 of Cr.P.C.

7. It is relevant to refer Section 566 of Police Standing Order hereunder:

566. Investigation to be impartial:

(1) Investigating officers are warned against prematurely committing themselves to any view of the facts for, or against a person. The aim of an investigating officer should be to find out the truth, and, to achieve this purpose, it is necessary to preserve an open mind throughout the Inquiry.

(2) Charge-sheets in cases and counter cases.—In a complaint and counter complaint obviously arising out of the same transaction, the investigating officer should enquire into both of them and adopt one or the other of the two courses viz., (1) to charge the case where the accused were the aggressors or (2) to refer



WEB COPY

both the cases if he should find them untrue. He should place before the court a definite case which he asks it to accept. The investigating officer in such cases should not accept into one complaint and examine only witnesses who support it and gave no explanation at all for the injuries caused to the other side. It is his duty to exhibit the counter-complaint in the court, and also to prove medical certificates of persons wounded on the opposite side. The truth in these cases is invariably not in strict conformity with either complaint and it is quite necessary that all the facts are placed before the Court to enable it to arrive at the truth and a just decision.

(3) If the Investigating Officer finds that the choice of either course is difficult, viz., to charge one of the two cases or to throw out both, he should seek the opinion of the Public Prosecutor of the district and act accordingly. A final report should be sent in respect of the case referred as mistake of law and the complainant or the counter-complainant, as the case may be, should be advised about the disposal by a notice in Form No. 90 and to seek remedy before the specified Magistrate, if he is aggrieved by the disposal of the case by the Police.

8. In view of the above, though the duty cast of the Investigation Officer to file the connected papers, when he chooses to file charge sheet in only one case, at the most, the non filing may be violation of the standing order. Those documents can also summoned by the Trial Court. At any event, only if the Police is not able to give the definite opinion as who is Aggressor, then both the cases to be charge sheeted. The Trial Court has to find out the same from the evidence. Therefore, merely because Police has not followed the procedures contemplated under Section 566 of the Police Standing Orders, the entire report cannot be quashed.

9. It is to be noted that filing of final report is the duty of the Police Officer and there is no requirement of obtaining opinion of the Public Prosecutor. Therefore, the order of this Court placed before this Bench in my view cannot be correct, as no opinion of Public Prosecutor is required for filing of final report.

10. In such view of the mater, I am of the view that merely on violation of proceedings of Police Standing Order, the final report cannot be quashed. At the most, it will be proper defence of the accused before the Trial Court. It is for the petitioner to take all his defence before the trial Court.



WEB COPY

11. Accordingly, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Judicial Magistrate,
Gudiyatham.
2. The Chief Judicial Magistrate,
Vellore.
3. The Inspector of Police,
Gudiyatham Police Station,
Gudiyatham, Vellore District.
4. The Public Prosecutor
High Court, Madras.

Crl. O.P. No.6677 of 2017
and CRL.M.P.Nos.4888 &4889 of 2017

SRA(CO)
CT 12/01/2022