



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVA**

Crl.O.P. (MD)No.6075 of 2021

and

Crl.M.P. (MD) .No.3484 of 2021

John Alexander

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
(Crime No.130 of 2019)

... 1st Respondent/Respondent

2.Marimuthu

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings of the F.I.R in Crime No.130 of 2019 dated 14.09.2019 on the file of the first respondent as Petitioner's concerned.

For Petitioner : Mr.C.Susikumar

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor.

ORDER

This petition has been filed seeking for a direction to call for the records and to quash the proceedings of the F.I.R in Crime No.130 of 2019 dated 14.09.2019 on the file of the first respondent.

2.The case of the prosecution is that on 13.09.2019 at about 11.50 p.m., the defacto complainant and other police officials were deputed to conduct vehicle checkup at Azhagapuri Check post and at that time, the second respondent intercepted the petitioner's car bearing Reg.No.TN-69-BF-7997 suddenly and the petitioner, who was sitting near the driver said to have abused all police officials by using unparliamentary words, slapped and restrained them from doing their official duty.

3.With the above allegation, a report was submitted before the first respondent police station and this F.I.R was registered as against the petitioner. According to the learned counsel for the petitioner, he did not involve in any crime as alleged by the second respondent. The fact remains that on the date of occurrence, the second respondent demanded illegal



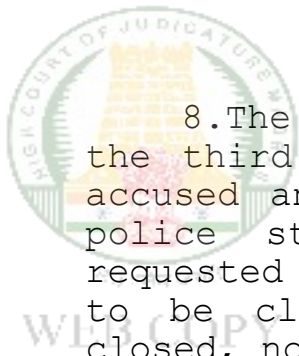
gratification and entered into a quarrel with the person who went in front of the petitioner's vehicle.

4. Being an advocate, the petitioner questioned the atrocities of the police officials, where the petitioner was assaulted by the second respondent as a result of which the petitioner sustained bleeding injury in his nose and also suffered chest pain and thereafter, the police officials took the petitioner to the first respondent police station and registered this false complaint.

5. After registration of the false case, the petitioner was produced before the learned Judicial Magistrate No.2, Srivilliputhur, where he narrated the entire incidents and atrocities committed by the second respondent. On seeing the injury, the learned Judicial Magistrate No.2, Srivilluputhur referred for medical treatment. Subsequently, the petitioner was admitted in Government Hospital, Srivilliputhur and he took treatment as inpatient for more than 2 days.

6. Apart from that, the learned Magistrate has specifically recorded the statement in the remand report. The defacto complainant alone entered into quarrel with the petitioner and assaulted him. Subsequently, he came to understand that the petitioner is an advocate and thereby for the only reason to escape from the clutches of law, this false case has been registered with a *malafide* intention to safe guard them. Further, there is no ingredient and *prima facie* case against the petitioner to make out the offence.

7. As far as the Sections 332 and 353 of IPC are concerned, the main ingredient to make out the offence on a person who uses criminal force and causes grievous hurt to deter the public servant from performing his duty and here, the second respondent demanded illegal gratification from the car driver, who went in front of the petitioner's vehicle and thereby, there is no question of lawful duty performed by the second respondent and no where it is stated that the petitioner used criminal force. Therefore, the offence would not be made out against him. With regard to Section 294(b) is concerned, the second respondent alone abused and assaulted the petitioner by using torch light, as a result of which, he sustained injuries and the same has been particularly recorded by the Magistrate at the time of the remand of the petitioner. Absolutely, the complaint was given with a *malafide* intention in order to harass the petitioner. Hence, he filed this petition.



8.The learned Additional Public Prosecutor would submit that the third respondent has given a statement, wherein the first accused and other petitioners are relations. They went to the police station to resolve the matter themselves and she requested further action to be dropped. On that ground, it came to be closed on 23.06.2021. Since, the complaint has been closed, nothing survives for further adjudication in this case.

9.Recording the submission made by the learned Additional Public Prosecutor, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

NOTE:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate No.2,
Srivilliputhur.
- 2.The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD)No.6075 of 2021
24.06.2021

RS (09.12.2021) 3P 4C