



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1 OP(MD) No.12294 of 2021

and

Cr1 MP(MD) No.6306 of 2021

WEB COPY

R.Rajakumar

... Petitioner/Sole Accused

vs.

1.The State, rep.by

The Sub-Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
(Crime No.586 of 2019)

2.Jebasingh

... Respondents/De-facto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.Pc, to call for the entire records pertaining to the case in C.C No.309 of 2020 pending on the file of the Judicial Magistrate, Valliyoor, Tirunelveli District and quash the same.

For Petitioner	: Mr.S.Balaji
For R1	: Mr.T.Senthilkumar, Additional Public Prosecutor
For R2	: Mr.S.Vishnuvardhan

ORDER

Heard the learned counsel on either side.

2.This criminal original petition has been filed for quashing the proceedings in C.C No.309 of 2020 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District. The petitioner is facing trial for the offences under Sections 279, 294 (b) and 506(1) of IPC. The second respondent is the de-facto complainant in this case. Based on the complaint of the second respondent, Crime No.586 of 2019 was registered. Final report was filed against the petitioner and cognizance was taken for the offences mentioned above. The case of the prosecution is that on 20.10.2019 at about 11.15 a.m, the petitioner's vehicle bearing Registration No.TN 72 BY 9788 (ALTO) was going in Thoothukudi - Nagercoil road. According to the complainant, the petitioner attempted to turn the vehicle without giving any advance signal and the complainant hit the car of the petitioner from



behind ; the petitioner got down from his vehicle and abused him in filthy language.

3.The learned counsel for the defacto complainant reiterated the stand of the prosecution and contended that this is not a case for quashing. The learned Additional Public Prosecutor for the first respondent supported the stand of the defacto complainant.

4.I heard the rival contentions and went through the materials on record. As rightly pointed out by the learned counsel appearing for the petitioner, Crime No.586 of 2019 was preceded by Crime No.585 of 2019 in which the petitioner figured as the defacto complainant. The petitioner had alleged that when he was proceeding towards Nagercoil from Valliyoor in his vehicle, the car of the second respondent herein hit him from behind. As a result, his vehicle suffered considerable damage. Based on the petitioner's complaint, FIR was registered and final report was filed and cognizance of the offence under Section 279 IPC was taken and summons were issued to the second respondent. The second respondent herein appeared before the trial court and pleaded guilty and remitted fine also.

5.For the occurrence said to have taken place on 20.10.2019, the defacto complainant herein lodged complaint only on 22.10.2019. According to the petitioner, this was done as a counter blast to his complaint. It is well settled if the court can come to the conclusion that where the impugned prosecution is attended by malafide and has been instituted with a view to wreak vengeance on the accused, it is a ground for quashing the proceedings (vide **1992 Supp (1) SCC 335 (State of Haryana vs. Bhajan Lal)**). The said proposition clearly applies to the facts of the present case. I am more than satisfied that the impugned prosecution has been instituted as a counter blast to Crime No.585 of 2019. The defacto complainant having pleaded guilty in the other case cannot maintain the impugned prosecution.

6.The impugned proceedings are quashed. This criminal original petition is allowed. Connected miscellaneous petition is closed.

Sd/-

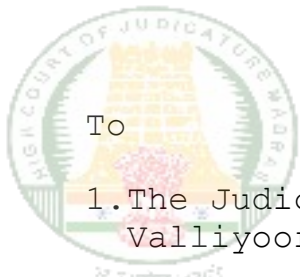
Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

skm



To

1.The Judicial Magistrate,
Valliyoor, Tirunelveli District.

2.The Sub-Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(01.12.2021) 3P 4C