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CrI.O.P No.4977 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.4977 of 2021

and

CrI.M.P No.3172 of 2021

Nandha @ Nandhakumar

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
G-7, Chetpet Police Station
Chennai.

2.Suresh

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to Crime No.246 of 2019 on the file of the 1st respondent Police and quash the same.

For Petitioners : Mr.S.M.Harikrishna

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor



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Crl.O.P No.4977 of 2019

ORDER

This Criminal Original Petition has been filed, seeking to call for the records pertaining to Crime No.246 of 2019 pending on the file of the 1st respondent Police and quash the same as illegal.

2. Heard the learned counsel appearing for the petitioner as well as learned Additional Public Prosecutor appearing for the 1st respondent.

3. The case of the prosecution is that on 18.06.2019, at about 10.00 a.m., the petitioner/A2 along with one Kiran went to the de-facto complainant's tender coconut shop and bought tender coconut and consumed it. Thereafter, when the de-facto complainant demanded money for the coconut, he refused to give money and threatened the coconut vendor by showing knife and attempted to assault him and also extorted Rs.750/- kept by him and ran away.

4. The learned counsel for the petitioner submitted that the petitioner is a respectable person, who has been approved as Home Guard by the



Assistant Commissioner of Police, Greater Chennai. In view of some misunderstanding between himself and the 1st respondent police, the case has been foisted against him. The learned counsel for the petitioner also produced the identity card of the petitioner to show that he was approved as Home Guard in HG-4567, Vepery Company - East.

5. When a person is approved as a Home Guard, his conduct, character and antecedents would have been verified by the police. Had the petitioner was a violent criminal, as how he was described in the complaint, he would not have been approved to serve as a Home Guard. So, I find some force in the submission of the learned counsel for the petitioner that only due to some misunderstanding between the petitioner and the de-facto complainant, a false case has been filed against him.

6. It is further submitted by the learned counsel for the petitioner that he is unable to trace the de-facto complainant as no such person is available in the alleged occurrence. The production of the identity card would show that the petitioner cannot be an accused who had committed the offence as stated herein. On the face of it, the FIR is unbelievable and it does not



disclose any cognizable offence as against the petitioner.

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7. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court held in the case of **State of Haryana and others Vs. Bhajan Lal and Others** reported in **1992 Supp (1) Supreme Court Cases 335** as under:

“

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which



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no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the Institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”

For the facts of the instant case, clause (e) of the above judgment is applicable. It is improbable that a person who was selected as a Home Guard is involved in robbing, threatening and other activities. On the face of it, the materials available on record would only disclose an improbable story. Hence, I feel it is an appropriate case where this Court has to exercise its power under Section 482 of Cr.P.C to quash the FIR.

8. In the result, this Criminal Original Petition stands allowed and the FIR in Crime No.246 of 2019 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

28.09.2022

Index : Yes/No



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Speaking Order : Yes / No
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To

1. The Inspector of Police,
G-7, Chetpet Police Station
Chennai.

2. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA, J.,

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