



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.6110 of 2019
and
Crl.M.P.No.3408 of 2019

Pasupathy Anand

... Petitioner/Accused

Vs.

1.State Represented by
The Sub-Inspector of Police
S-2, Airport Police Station
Chennai Airport
Chennai 600 016.

2.V.Bharathi

... Respondents/
Defacto Complainant

PRAYER: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records and quash the charge sheet made against him in C.C.No.603 of 2018 before the learned Judicial Magistrate, Alandur.

For Petitioner : Mr.N.Kumar Rajan

For Respondent : Mr.R.Vinothkumar for R1
Government Advocate (Crl.Side)
: Mr.P.Ayyasamy for R2
(CGSC)

ORDER

This petition had been filed to call for the records and quash the charge sheet made against him in C.C.No.603 of 2018 before the learned Judicial Magistrate, Alandur.

2. The learned Counsel for the Petitioner submitted that the Petitioner is a Non-Resident Indian (NRI) working in Doha, Qatar as a Manager Finance and Administration in TEYSEER Motors Company. On the date of occurrence, the Petitioner is alleged to have objected to the Immigration Authorities, who had directed him to stand in the line. Thereafter, he was detained in the immigration office. Subsequently, for the objection raised by the Petitioner, the Immigration Officers had preferred a complaint to the Airport Police.



3. The learned Counsel for the Petitioner invited the attention of this Court to the complaint preferred by the second Respondent /Defacto complainant. From the averments in the complaint, it is clear that the offence under Sections 294(b), 353 IPC, are not attracted. Therefore, he sought to quash the final report laid before the Court of the learned Judicial Magistrate, Alandur, in C.C.No.603 of 2018.

4. The learned Counsel for the Petitioner also invited the attention of this Court to the typed set of papers, where the statement of witnesses cited by the Investigation Officer had been produced. The statement of the witnesses under 161 Cr.P.C. culminated into the averments in the complaint. Therefore, the ingredients of the offence alleged against the Petitioner are not made out.

5. The learned Counsel for the second Respondent / Defacto complainant objected to the submission of the learned Counsel for the Petitioner stating that the final report of the investigation cannot be quashed. What are all argued by the learned Counsel for the Petitioner are to be considered only at that time of trial before the Court of the learned Judicial Magistrate, Alandur.

6. The learned Government Advocate (Crl.Side) also vehemently objected to quashing of the final report stating that the Accused was arrested and produced before the Medical Officer for alcohol test, but he refused to co-operate. Thereafter, the Medical Officer had issued a certificate that the Accused was under the influence of alcohol. The ingredients of the offences are made out as he was under the influence of alcohol. The arguments of the the learned Counsel for the Petitioner cannot be accepted and this final report cannot be quashed on the basis of the submission of the learned Counsel for the Petitioner by invoking extraordinary powers of the High Court under Section 482 of Cr.P.C.

7. The learned Government Advocate (Crl.Side) appearing for the first Respondent further submitted that what are all argued by the learned Counsel for the Petitioner are to be considered only at that time of trial while recording of evidence. Further, there are sufficient materials to prosecute against the Petitioner through Medical Officer.

8. On consideration of the rival submissions, the submission of the learned Government Advocate (Crl.Side) is accepted. The Hon'ble Supreme Court in the Judgment of State of Haryana and Ors. Vs. Ch.Bhajan Lal and Ors, reported in 1992 Supp (1) SCC 335: 1992 SCC (Cri) 426, deprecates the practice of using or exercising extraordinary power under Section 482 of Cr.P.C., leniently. Only if there is no material to incriminate



the Accused, the High Court can exercise its power under Section 482 of Cr.P.C. In the case on hand, as rightly pointed out by the learned Government Advocate (Crl.Side) that there are materials available through Medical Officer regarding the offences alleged against the Petitioner. Therefore, it is for the Petitioner to agitate his valuable defense before the trial Court.

9. In the light of the above, this Criminal Original Petition is dismissed with the direction to the learned Judicial Magistrate, Alandur, to proceed with the trial and dispose of the case within a period of three months from the date of receipt of a copy of this order. If the Petitioner files any petition seeking exemption from personal appearance at any stage, it is for the learned Judicial Magistrate to consider it in the circumstances of the case. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dna

To

1.The Judicial Magistrate, Alandur.

2.The Sub-Inspector of Police
S-2, Airport Police Station
Chennai Airport
Chennai 600 016.

3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.P.Ayyasamy, Advocate, S.R.No. 29310
+1cc to Mr.N.Kumar Rajan, Advocate, S.R.No.29112

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SR(CO)
GN(27/05/2022)