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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.11098 of 2021

Mr.S.S.Syed Ibrahim Sha

...Petitioner

Vs

1.The Director General of Police,
State of Tamil Nadu,
Kamarajar Salai,
Chennai.

2.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai-13.

...Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to direct the 1st respondent to transfer the investigation pending on the file of the 2nd respondent and transfer the same to any other competent agency and file FIR case.

For Petitioner : Mr.A.Balamurugan

For Respondents : Mr.A.Gokulakrishnan
Addl.Public Prosecutor

O R D E R

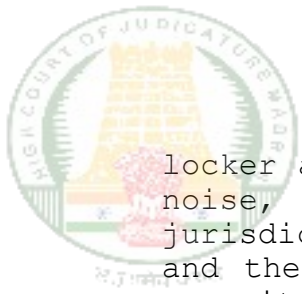
This Criminal Original Petition has been filed by the petitioner, who is the Accused in Crime No.4099 of 2020, to direct the 1st respondent to transfer the investigation pending on the file of the 2nd respondent to any other competent agency and file FIR.

2. The case of the petitioner is that he is a native of Ilayankudi, Ramnad District and that he is doing business at Chennai. It is the further case of the petitioner that he is married to one Barakkath Nisha and they were blessed with three female children who have got married and living with their respective families. The further case is that the petitioner's wife also hail from the same village and all her siblings are



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also residing at Chennai. Due to matrimonial dispute, the relationship between the petitioner and his wife was not cordial. Taking advantage of the same, his wife's sister and her family members interfered in the family matters of the petitioner. In order to avoid further issues the petitioner had shifted to a flat in West Madha Church Street, Salma Classic Place, Flat No.2B, Royapuram, Chennai 600 013. The relationship between them became bad to worse and his wife had not taken proper care of the petitioner. On 17.10.2020, there was a quarrel between the petitioner and his wife. In order to make a complaint against his wife, the petitioner had called his wife's sister over phone. While the petitioner was talking with his sister-in-law, her son Mohammed Ansarudeen had taken the phone from her and scolded the petitioner with vulgar words and went to the extent of giving life threat to the petitioner. The petitioner had disconnected the phone and strictly instructed his wife not to go to her sister's house. While so, the petitioner's wife had called her nephew Mohammed Ansarudeen over phone and had informed him that the petitioner was attempting to assault her. The petitioner's wife, after disconnecting the phone, had informed him that her nephew Mohammed Ansarudeen along with friends was coming to get rid of him. Fearing assault by his wife's nephew, the petitioner closed the main door and due to the quarrel, the petitioner's wife and younger daughter went into the bedroom and locked from inside. It is further case that about 10.30 PM the main door of the petitioner's house was rashly and repeatedly knocked, guessing and apprehending that it was Mohammed Ansarudeen, who might assaulted him with his friends, the petitioner had loaded his licensed gun with 7 bullets and went inside the bathroom, which is about 20 sq.ft and locked bathroom door from inside. After the petitioner had gone inside the bathroom, his wife had opened the main door and had allowed her nephew Mohammed Ansarudeen and one of his friend to come into the petitioner's house. The petitioner's wife had informed that the petitioner was hiding inside the bathroom and said Mohammed Ansarudeen and his friend had come and knocked the bathroom once again. Fearing that the said Mohammed Ansarudeen and his friend might cause danger to his life, the petitioner in order to frighten them, had opened fire with the licensed gun on the floor of the bathroom. During such time, a tile in the bathroom had broken and it had caused injury in the left hand of the petitioner and the petitioner had sustained bleeding injury and unable to bear the pain, the petitioner had opened the bathroom door and immediately on seeing the petitioner, Mohammed Ansarudeen and his friend had ran out of the house under the apprehension that the petitioner might open fired against them. Thereafter, the petitioner's wife had gone into the bed room and locked the door from inside and she had not opened the door. After that, with the bleeding injury, the petitioner had gone into the room and had kept the licensed gun inside the number



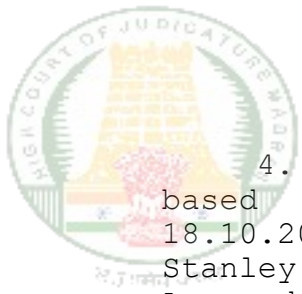
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locker and went to hospital through lift. On hearing the firing noise, the security guards in the apartment had informed the jurisdictional Police which is situated within half a Kilometer and the petitioner was made to wait on the ground floor by the security guard till Police had reached the apartment. It is further case that the Assistant Commissioner of Police and the then in-charge Inspector of Police of N-1, Royapuram Police Station, Mr.Kodiraj along with Police personnel had come to the apartment at about 10.50 PM and had enquired the petitioner. The petitioner had narrated about the incident and he was ordered by the Police to handover the gun which was used by the petitioner. Out of 10 bullets, 6 bullets were in the gun and 3 bullets were recovered from the bag. This had happened around 10.50 PM to 11.00 PM. It is the further case that the Police took the petitioner to Government Stanley Hospital and on the request of the petitioner to admit him to Apollo Hospital, the Police had taken the petitioner to Apollo Hospital, Greams Road, Chennai. The petitioner under went surgery in the hands on the next day i.e. on 18.10.2020. Though the petitioner was advised to continue the treatment as inpatient the Police discharged the petitioner on 19.10.2020 and had taken him to the Magistrate Court and the petitioner was remanded in a false complaint given by Mohammed Ansarudeen which was registered in Crime No.4099 of 2020 as if he had come to the house of the petitioner on the request of the petitioner's wife and at that time, the petitioner had opened fire on him and the case was registered for offences under Sections 341, 294(b), 506(2), 307 of IPC r/w25(1)(a) of Arms Act, 1959 and the petitioner was remanded to judicial custody and he came out on bail after 40 days. It is the case of the petitioner that there were totally 10 bullets, out of which, 7 bullets were loaded in the gun, one was fired and 3 were in the bag kept in the house and thereby, out of 10 bullets, only one was used and 9 bullets were remaining, whereas a false complaint had been given as if the petitioner had shot Mohammed Ansarudeen at 10 PM on 17.10.2020 and that immediately, he was taken to Government Hospital by his maternal uncle, Nizar Ahammed and admitted. It is the further case of the petitioner that as per the records, the Inspector Mr.V.Kodiraj is stated to have received information from the Government Stanley Hospital at 7.00 AM on the next day i.e 18.10.2020 and it is the case of the Police that they went to the hospital on next day and obtained statement from Mohammed Ansarudeen and registered the FIR. It is the case of the petitioner that the respondent Police knowing well that the petitioner sustained injury while firing inside the bathroom had projected a false case as if the de facto complainant Mohammed Ansarudeen sustained injuries due to the firing of the petitioner. There are time gaps in the receipt of information and registration of complaint and Thiru.Kodiraj, the respondent Inspector of Police, who is aware of everything and who had admitted the petitioner on previous day in Apollo



Hospital has registered a false case based on the complaint given by Mohammed Ansarudeen. Since the respondent conducted illegal investigation and the petitioner was made to suffer incarceration for 40 days, the petitioner had sent a representation to the respondent on 30.01.2021 seeking for transfer of investigation and to conduct fair investigation. Since the representation was not considered, the present petition has been filed.

3. Mr.Balamurugan, learned counsel for the petitioner would submit that the petitioner and the defacto complainant are relatives. The defacto complainant is the aggressor, who along with his friend had come to the petitioner's house to assault him. The petitioner, apprehending life threat, had used his licensed gun and in order to frighten the said Mohammed Ansarudeen and his friend, had fired inside the bath room and the petitioner had sustained injuries in his left hand. On hearing the firing noise, the said Mohammed Ansarudeen and his friend ran away from the apartment complex. He would further submit that this could be very well analysed from the CCTV footages available in the apartment complex. He would further submit that on the intimation given by the security guard of the apartment, the respondent police have rushed to the apartment immediately and they have seized the licensed gun along with the remaining bullets. The petitioner was immediately taken to Government Stanley Hospital, Chennai and thereafter, admitted in the Apollo Hospital, Greams Road, Chennai, by the respondent police. After fleeing away of Mohammed Ansaruddin, nothing had happened whereas on a false complaint given by the said Mohammed Ansarudeen that he sustained a bullet injury due to the firing by the petitioner, a false case in Crime No.4099 of 2020 was registered by the respondent police on the next day. The then Inspector of Police, Kodiraj, who is the person who had referred the petitioner to Apollo Hospital knowing fully well that the said Mohammed Ansarudeen, is the aggressor, had registered a false complaint as if intimation was received from Stanley Hospital on the next day. He would also submit that the CCTV footages available in the apartment complex and the CCTV footages available in the Stanley Hospital and the timing of the admission and the timing of information received from Stanley Hospital would clearly prove that the entire case was fabricated and fixed to protect the aggressor (Mohammed Ansarudeen) and to fix the petitioner who is innocent. He would further submit that the respondent police were already in the habit of foisting of false cases against the petitioner and they have also been deprecated by the higher police officials. He would also submit that the investigation has not been done in a fair manner suppressing all available materials. He would pray for transfer of investigation.



4. Learned Additional Public Prosecutor would submit that based on the information from the Stanley Hospital on 18.10.2020 at morning hours, the respondent police went to the Stanley Hospital and obtained a statement from Mohammed Ansarudeen and had registered a case. He would further submit that in the incident, the petitioner had also sustained injuries in his hand and he was taken to Apollo Hospital on the previous day and he was admitted for the treatment, later after discharge, he was remanded to Judicial custody and later he had granted bail. He would also submit that as per the petitioner, after the incident, the petitioner was taken by the respondent police to Stanley Hospital and he was taken to Apollo Hospital where he had undergone a surgery. He would submit that the investigation is pending and if the petitioner is not satisfied with the investigation with regard to usage of licensed pistol and the number of bullets, the case may be referred to the Deputy Commissioner of Police, Washermanpet, who may be directed to monitor the investigation and file the final report. He would also submit that the respondent had conducted the investigation in a fair manner. He would further submit that the respondent had filed status report and as per the status report, it is stated that the de facto complainant, at the request of his maternal aunt, had gone to her house and that the accused had threatened the de facto complainant with a gun and had opened fire and the complainant had sustained injuries in the left hand. Since the de facto complainant sustained injuries, he was admitted in Stanley Hospital by his uncle and on the next day on information from Stanley Hospital, the respondent has recorded a statement and registered a case in Crime No.4099 of 2020. He would also submit that they have examined 7 witnesses and that during the course of investigation, on 19.10.2020, the respondent has seized the .32 Bore Revolver containing 8 bullets No. 1316126 Arms License No. A0042/B1/FBZ and that on 23.10.2020, the Inspector of Police had sent the seized weapon, bullets and other materials to the Forensic Science Laboratory, Chennai and that once the report is received, the final report will be filed.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor. Perused the materials available on record.

6. It is the case of the petitioner that the defacto complainant is the aggressor who had come to the petitioner's house along with his friend, to attack the petitioner. It is also the further case that out of the 10 bullets, only one was used and that he had handed over the gun with 6 loaded bullets and 3 bullets in the bag whereas, the case has been projected as if the petitioner had fired at the defacto complainant and the defacto complainant had sustained a bullet injury. The



petitioner has also alleged that the respondent, though they were aware of the incident even at 10.30pm on 17.10.2020, the case has been strangely registered on the next day as if it was on receipt of information from Stanley hospital that the respondent police had visited the Stanley hospital and obtained statement from the defacto complainant. It is also the further case of the petitioner that the CCTV footages in the apartment complex were not recovered. The status report filed also does not stating anything about the CCTV footages from the apartment complex.

7. This Court finds that there are some loopholes in the investigation. In view of the above, this Court directs the Deputy Commissioner of Police, Washermanpet to transfer the investigation pending on the file of the second respondent to the file of the Assistant Commissioner of Police, Washermanpet, who shall review the file and continue with the further investigation and file the final report as expeditiously as possible preferably within a period of four months from the date of receipt of a transfer of the case to his file. The Deputy Commissioner of Police, Washermanpet Zone, is directed to monitor the investigation.

8. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CO)

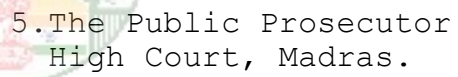
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Sub Assistant Registrar

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To

- 1.The Director General of Police,
Kamarajar Salai,
Chennai.
- 2.The Deputy commissioner of Police,
Washermanpet,
Chennai.
- 3.The Assistant commissioner of Police,
Washermanpet,
Chennai.
- 4.The Inspector of Police,
N-1, Royapuram Police Station,
Chennai-13.



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SJ (CO)
RVM (05/05/2022)