

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL.O.P. NO.14911 OF 2022 & CRL.M.P.NO.8281 OF 2022

Vignesh V

... Petitioner

Vs.

State by
The Inspector of Police,
D1 Triplicane Police Station,
Chennai - 37.
[Crime No.788 of 2017]

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the Crime No.788 of 2017 on the file of the respondent police, D-1, Triplicane Police Station and quash the same.

For Petitioner : Mr.C.Iyyapparaj

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report registered in Crime No.788 of 2017 on the file of the respondent for the offences under section 75 of Tamilnadu City Police Act, 1888 and Section 7[1][a] of Criminal Law Amendment Act, 2005.

2. The crux of the allegation in the First Information Report is that the accused were indulging in fighting with each in a public place and thereby, they created nuisance in a public place. The First Information Report has been registered on the basis of the report given by the Sub Inspector of Police.

3. The contention of the learned counsel appearing for the petitioner is that for Section 75 of the Tamilnadu City Police Act, maximum punishment is only six months and not exceeding six months. Therefore, it is his contention that it is only a non cognizable offence, therefore, the police cannot, without the permission from the Magistrate, investigate the matter. Further, it is his contention that Section 7[1][a] of the Criminal Law Amendment Act is only an amendment to Section 195A of Indian Penal Code and it is not a penal provision. Hence, submitted that the First Information Report is nothing but abuse of process of law and seeks to quash the same.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the respondent.

5. As rightly pointed out by the learned counsel for the petitioner, Section 7[1] [A] of Criminal Law Amendment Act is only an amendment to Section 195A of IPC and it is not a penal provision. In such view of the matter, slapping of the provision under the Criminal Law Amendment Act is misconceived and the offence alleged against the petitioner under Criminal Law Amendment Act is not punishable. Therefore, registration of the First Information Report under the above section will not serve any purpose. Further, maximum punishment for Section 75 of the Tamilnadu City Police Act is 6 months or fine not exceeding Rs.1000/- and the offence is a non cognizable offence and therefore, investigation cannot be proceeded without the permission of the learned Magistrate under section 155 of Cr.P.C. Without following the above procedures, filing of the First Information Report and conducting Investigation is nothing but abuse of process of law.

6. Accordingly, this Criminal Original Petition is allowed and the First Information Report registered in Crime No.788 of 2017 on the file of the respondent, is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vrc

To,

1. The Inspector of Police,
D1 Triplicane Police Station,
Chennai - 37.
2. The Public Prosecutor,
High Court of Madras.

+2ccs to Mr.C.Iyyapparaj, Advocate, S.R.No.41879

Crl.O.P. No.14911 of 2022

NRL(CO)
PM/15/07/2022