



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Cr1.O.P.No.16753 of 2019
and
Cr1.M.P.No.8420 of 2019

S.Vinayak

...Petitioner

Vs.

1.The state rep. by
The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam.

2.Elavarasi

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in the Sessions Case No.152 of 2018 on the file of the Chief Judicial Magistrate Court, Nagapattinam, Nagapattinam District, quash the same.

For Petitioner : Mr.N.Vijayakumar
for Mr.R.Muruga Bharathi

For R1 : Mr.N.S.Suganthan
Government Advocate (Criminal Side)

For R2 : Mr.M.Govindaraju

O R D E R

The petitioners have filed this petition seeking to quash S.C. No.152 of 2018 on the file of the Chief Judicial Magistrate Court, Nagapattinam, Nagapattinam District, quash the same.

2.The petitioner herein is the sole accused in Crime No.110 of 2018, which is now taken on the file and pending before the learned Chief Judicial Magistrate, Nagapattinam in S.C.No.152 of 2018.



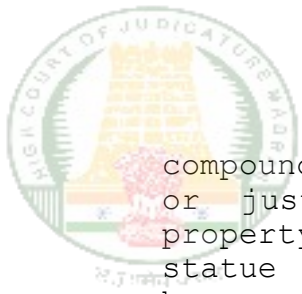
3. The sum and substance of the complaint against this petitioner is that he trespassed into the property of the defacto complainant where a public school is functioning and damaged the statue of Mahatma Gandhi, whereas in the petition to quash the case, the petitioner claims that there is a civil dispute regarding the property in T.S No.435/1 and the identity of the said property is the subject matter in O.S.No.174 of 1986. In this connection, the petitioner had put up a compound wall within his property, which was objected by the defacto complainant and henchmen and the said compound wall was pulled down by the defacto complainant on 26.03.2017. To cover up this action, a false and frivolous complaint has been lodged against him, which was taken for investigation in Crime No. 145 of 2017 for the alleged offences under Sections 448, 504, 505(1)(b) of IPC and Section 3(1) of Prevention of Damage to Public Property Act, 1984.

4. In the petition to quash, it is contended that ingredients of the alleged offence are not made out. There is a persistent dispute between the defacto complainant and the petitioner. Civil suits, Criminal case and petition before the Human Rights Commission are pending. To wreck vengeance, without any evidence, a case has been registered against him for the alleged offence under Section 3(1) of PPDL Act.

5. The learned counsel appearing for the defacto complainant would submit that the petitioner herein after damaging the statue of Mahatma Gandhi also intimidating the defacto complainant with dire consequences. After due investigation, final report has been filed and the same is taken on the file by the learned Chief Judicial Magistrate, Nagapattinam. The petitioner filed petition under Section 482 of Cr.P.C before this Court to quash the complaint, has also filed application to discharge before the trial Court to discharge and the same pending. The prosecution has collected enough oral and documentary evidence implicating the petitioner herein for the offences under Sections 448, 504, 505(1)(b) of IPC and Section 3 (1) of Prevention of Damage to Public Property Act, 1984.

6. The learned Government Advocate (Criminal Side) appearing for the first respondent, states that the Investigating Officer, after appropriate investigation has completed the investigation and filed the final report recording the statement of witnesses.

7. Considering the material available and placed before this Court, this Court is of the view that it is not a fit case for quash, since prima facie material is available to proceed against the petitioner herein. In the petition to quash, it is contended that despite the order of the Civil Court, the defacto complainant has disobeyed the Civil Court order and damaged the



compound wall erected by him. This cannot be a reason or ground or justification for the petitioner to trespass into the property of the defacto complainant and caused damaged to the statue of Mahatma Gandhi. In any event, these are the facts to be proved through proper trial and same cannot be interfered under Section 482 of Cr.P.C. Hence this Criminal Original Petition is dismissed without prejudice to the contention of the petitioner herein in his discharge application. The connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vri/jai

To

- 1.The Chief Judicial Magistrate,
Nagapattinam.
- 2.The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam.
- 3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Govindaraju, Advocate SR. No. 32467

+1cc to Mr.R.Murugabharathi, Advocate SR. No. 32942

Cr1.O.P.No.16753 of 2019

GPL (CO)

PR (14/06/2022)