



Crl.O.P No.19381 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **15.12.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.19381 of 2019
and Crl.M.P. No.9900 of 2019

M.Anandan

... Petitioner

Vs.

1. State rep. by
The Sub-Inspector of Police,
E-3, Teynampet Police Station,
Teynampet, Chennai District.

2. K.M.Sekar

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the charge sheet filed which is presently pending in C.C. No.7408 of 2018 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai District.

For Petitioners : Mr. M.L.Ramesh

For Respondent-1 : Mr. A.Gopinath
Govt. Advocate (Crl.side)

2 : No appearance



ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records and quash the charge sheet filed which is pending in C.C. No.7408 of 2018 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai District.

2. The petitioner is the sole accused in this case. The case of the prosecution is that on 29.11.2017 at about 08.45 a.m., a car bearing Reg. No.TN-32-AJ-5600 while coming from Alwarpet to Anna Salai was intercepted by the traffic police; in the said car, a board containing the word 'Police' was written and placed near the front mirror by making it visible to everyone; the lady who was sitting at the back seat told the police that she had taken the car for rent; when the driver in the car was enquired, he told that he is a police; on suspicion, the police verified the records and came to know that it is a car for private purpose and not a police vehicle; while the driver of the car who is the accused herein was quarrelling with the police, the lady who was at the back seat went away; thereafter, the driver of the car, by telling that he would take his Identity card, had started the vehicle in a rash manner and left. On the basis of this allegation, a case has been



registered against the petitioner in Cr. No.1965/2017 for the offence under Section 170, 353, 506(i) IPC r/w. 192(A) of Motor Vehicles Act. After investigation, charge sheet has been filed in C.C. No.7408/2018 for the offences under Section 170, 353, 506(i) IPC r/w. 192(A) of Motor Vehicles Act on the file of the XVIII Metropolitan Magistrate Court, Saidapet.

3. The learned counsel for the petitioner submitted that in order to make out an offence under Section 170 IPC, a person ought to have impersonated a person holding the public office and in such assumed public character he should attempt to do any act under the colour of such office; in the case on hand, such ingredients are not present and hence it does not make out the offence as alleged by the prosecution.

4. In support of his above contention he also relied on the decision of Punjab and Haryana High Court in *Saroop Singh Vs. State of Punjab* reported in *Criminal Misc. M.No.20878 of 2010*. In the said case it is held that mere assumption of a character without any attempt to commit any official act is not sufficient to attract Section 170 IPC.



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5. The learned Government Advocate (Crl. Side) submitted that the accused had kept the name board 'Police' in the front side of his vehicle by making it visible; when enquired the petitioner claimed that he is a Police and started to quarrel with the Police; the act of the accused would amount to not only assuming the character the public servant but also doing an act under the colour of such office; hence the investigation should be allowed to go on.

6. The learned counsel for the petitioner vehemently argued that the petitioner had merely written the word 'Police' and kept it inside the vehicle and when enquired he told himself as a police and that alone is not sufficient to make out an offence under Section 170 IPC. Because he did not attempt to commit any official act under such assumed character. He further relied on the judgment of the Punjab and Haryana High Court and submitted that no case will be made out against the petitioner.

7. The judgment of Punjab and Haryana Court in ***Soorab Singh's case*** (cited supra) should be seen in the context of its own facts. The petitioner had pretended himself as a police by keeping a police board in his



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vehicle and making it visible to everyone. When he was intercepted, he asserted that he is a police and behaved rudely to the police officials. The accused not only assumed the character of public servant by asserting that he is a police man, he had also placed a name board 'Police' by making others to believe that he is driving a police vehicle.

8. The above acts of the petitioner cannot be said that it will not fall under the purview of Section 170 IPC. The petitioner had also rushed away from the place of occurrence when he was being enquired by the police. The petitioner knowing very well that he is not a police man and he is a driver of a private vehicle, without any relevance had kept the police board for the purpose of inviting attention and prominence. Had the petitioner kept the police board inside the car and confined himself at his home, it could be construed that he did not act in the colour of assumption of such character. The petitioner was dare enough to use the police board in his private vehicle and was driving in a public road.

9. This is not a case which does not disclose any material or even when the materials are uncontroverted. Since a private person has assumed



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himself as a police and behaved so, the case has been registered for the offence under Section 170, 353, 506(i) IPC r/w. 192(A) of Motor Vehicles Act. The witnesses have also spoken about the acts committed by the petitioner. Hence I find no reason to quash the proceedings at this stage.

10. In view of the above stated reasons, this Criminal Original Petition is dismissed. However, it is made clear that the above observation and discussion are only for the purpose of this petition. The learned Magistrate shall appreciate the materials available during trial independently, without being influenced by these observations. Connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order : Yes / No
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To:

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1. The Sub-Inspector of Police,
E-3, Teynampet Police Station,
Teynampet, Chennai District.
2. The XVIII Metropolitan Magistrate,
Saidapet.
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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