



Crl.O.P.No.27192 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P.No.27192 of 2022

and

Crl.MP.No.16718 of 2022

1.Chandrasekaran.S

2.Mohammed Abdul Rahman

...

Petitioners

/vs/

1.The State Represented by,
The Inspector of Police,
Erumpatty Police Station,
Namakkal District
In Cr.No.647/2021.

2.Boopathi
S/o Thangavel,
Sub Inspector of Police,
Erumpatty Police Station,
Namakkal District.

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure to call for the records culminating C.C.No.174 of 2022, pending on the file of the learned Judicial Magistrate, Sendhamangalam and quash the same.

For Petitioners
For Respondents

... Mr.A.P.Balaji
... Mr.E.Raj Thilak,
Additional Public Prosecutor for R1



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ORDER

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This Criminal Original Petition has been filed to call for the records culminated in CC.No.174/2022 pending on the file of the learned Judicial Magistrate, Sendhamangalam and quash the same.

2. The learned counsel for the petitioner submitted that the charge sheet does not disclose anything pertaining to the petitioner in respect of the charges levelled against him; there is no material available to constitute the offence of conspiracy; the allegations are improbable and unbelievable; the Investigation Officer and the complainant are one and the same person which is against the fundamental principle of fair trial.

3. The learned Additional Public Prosecutor for the respondent submitted that there are sufficient materials available on record to make out a case as against the accused for the offence for which he was charged and hence the petition should be dismissed.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on



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5. On perusal of the First Information Report, it is seen that the information has been given and registered by LW.3 Boopathy.T, Sub Inspector of Police, Erumpatty Police Station, Namakkal District. It is alleged that when the police party including the complainant were on patrol duty, the petitioners had damaged the bus glasses and caused hindrance to the public and the transport. In view of the the said allegation, a case has been registered for the offences under Section 151 of the Code of Criminal Procedure, 1973 and 7(1)(a) of the Criminal Law Amendment Act, 2005.

6. The records would show that the charge sheet has been filed basing on the statement of the *defacto* complainant and other police who formed part of the police team. The complainant and the Investigation Officer are one and the same and no private person has been examined as witnesses. Since LW-3 has registered the complaint, investigation ought to have been done by some other officer and only then the investigation can be considered as free from bias.

7. Since the materials available on record do not have the strength to substantiate the case against the petitioners for the charges under Section 151 of the Code of Criminal Procedure, 1973 and 7(1)(a) of the Criminal Law



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Amendment Act, 2005, deem it fit to invoke the powers of this Court under Section 482 Cr.P.C to quash the proceedings to serve the ends of justice.

Accordingly, this Criminal Original Petition is **allowed**. The proceedings in CC.No.174/2022 pending on the file of the learned Judicial Magistrate, Sendhamangalam is set aside. Consequently, connected miscellaneous petition is closed.

08.11.2022

jrs

Internet: Yes/No

Index: Yes /No

Speaking /Non Speaking



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R.N.MANJULA, J.

jrs

To

1. The Judicial Magistrate,
Sendhamangalam.
2. The Public Prosecutor,
High Court, Madras.

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and
CrI.MP.No.16718 of 2022

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