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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.NO.34055 OF 2019

AND

CRL.M.P.NO.18819 OF 2019

T.P.Ramesh

... Petitioner

Versus

1. The Inspector of Police,
Hasthampatty Police Station,
Salem City.
2. Aravinth TMS

... Respondents

Prayer:-

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure seeking to stay all further proceedings of the Sessions case in S.C.No.164 of 2019 pending on the file of the Principal District and Sessions Judge, Salem and call for the records in Sessions Case No.164 of 2019, pending on the file of Principal District and Sessions Judge, Salem and quash the same.

For Petitioner : Mr.S.Prabakaran, Senior Counsel
for Mr.MA.Gouthaman

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For R2 : Mr.Adithya Varadarajan
for Mr.AE.Ravichandran

ORDER

The petition has been filed to quash the final report filed in S.C.No.164 of 2019 pending on the file of the Principal District and Sessions Judge, Salem.

2. The brief facts of the case are as follows:



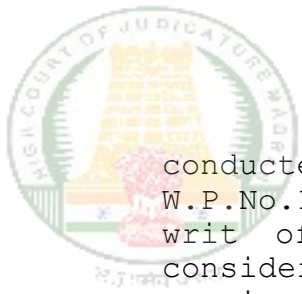
The second respondent/complainant lodged a complaint before the first respondent/police stating that, when he resides at the place of occurrence and on the day of occurrence i.e., 28.10.2017 at about 00.10 hours smoke was felt from the Portico of the residence and when he and his wife came out and saw his car partly burned and bike found fully burnt manner, and with the help of his neighbors, they controlled the fire. Thereafter, he gave a complaint before the first respondent. Based on the complaint, first respondent filed an FIR in Crime No.369 of 2017 under Section 436 of IPC. After completion of investigation and the confession statement of the first accused, the first respondent/police filed a final report on 04.06.2018 under Sections 436, 120(B), 307 of IPC and under Section 4 of Tamil Nadu Public Property Prevention of Damage & Loss Act against the petitioner herein, in which, he is arrayed as sixth accused.

3.The learned counsel for the petitioner submits that the petitioner is no way connected with alleged occurrence and there is no specific allegations made against this petitioner in the complaint. He being a practising advocate was falsely implicated in this case at the time of filing final report without conducting proper investigation. The present criminal proceedings against him are abuse of process of law and if it is allowed it would result in injustice. Hence, he prays for quashing the final report.

4.The learned Additional Public Prosecutor appearing for the first respondent/police submitted that the after conducting proper enquiry and on a perusal of the materials evidence, the final report has been filed. Furthermore, this petitioner has been implicated only based on the confession statement of the other accused and there is no irregularity on the side of the investigating agency. Hence, there is no necessity for quashing the final report and he prayed for dismiss this petition. No representation on the side of second respondent though vakalat filed.

5.By way of reply, learned counsel for the petitioner submitted that, as per the allegation in the FIR, on the date of alleged occurrence, bike and car were said to have been burnt using petrol bomb and on seeing the smoke and smell felt from the Portico in the mid night, the second respondent/complainant came down and found his vehicle burnt. Thereafter, he gave a complaint with the CCTV footage, wherein one unknown person was said to have been involved in the offence.

6. Further, he submits that the second respondent is the son of the former Minister Mr.T.M.Selvaganapathy and since the said Selvaganapathy was not satisfied with the investigation

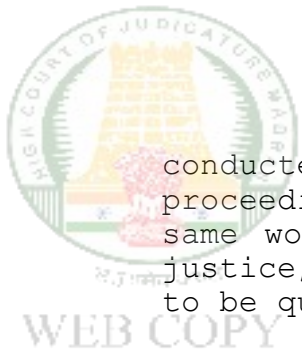


conducted by the first respondent, he filed a writ petition in W.P.No.13444 of 2019 before this Court seeking issuance of a writ of Mandamus to direct the first respondent herein to consider his representation dated 01.03.2019 and conduct further enquiry and same was allowed with the condition to conduct further investigation, by considering the CCTV footages recovered from his neighbour's house and phone call details within a period of six weeks. The said order passed in the writ petition was also produced at the time of arguments and the same perused by this Court. Further more the said petition to conduct further investigation was filed by the father of Second respondent in the year 2019 immediately after filing of the said final report. In the writ petition father of the respondent stated as follows:

"5. I state that in the CCTV footage that was played to me, it is clear that a 'Honda Active' scooter is seen moving suspiciously and the rider is seen talking to persons sitting inside a car and it is also seen subsequently that a lone person is seen scanning my house moments prior to the house being set on fire."

7. Furthermore, on a perusal of the paragraph 9 of the affidavit filed in support of the writ petitioner he stated about the investigation conducted by the first respondent as well as in final report, which is full of material lapses and key materials which have been provided to the investigating officer, and same has not been looked into.

7.a. Thus the contention raised by the father of second respondent/complainant shows that they were not satisfied with the investigation conducted by first respondent. Relying the contentions raised in the said Writ Petition, the learned counsel for the petitioner submitted that the first respondent, in hasty, without conducting proper investigation, laid a final report and also included this petitioner as sixth accused, who is a practicing Advocate in Salem. Further, the learned counsel for the petitioner pointed out that investigating agency was not very certain about the manner of the alleged incident that had happened during the initial stage, they stated that the alleged incident had happened by throwing petrol bomb and subsequently they also concluded that alleged occurrence had happened by pouring kerosene, which itself proves that the investigation was not done in proper manner. The contention of the father of second respondent is that one Ford Dio car was involved in the said occurrence, but, no such vehicle was seized on the side of the investigating agency. As per the final report, there is a lot of slackness in the final report, which needs further investigation. Therefore, investigation itself has not been



conducted in a proper manner. On such circumstances if criminal proceedings are permitted to proceed against this petitioner, the same would result in injustice and to prevent promotion of the justice, final report filed against this petitioner is prayed to be quashed.

8. The learned Additional Public Prosecutor appearing for the first respondent contended that only based on the prime facie materials, they submitted final report.

9. On considering the submissions of both sides, the defacto complainant's family itself is not satisfied with the investigation conducted by the first respondent and as per the direction given by this Court the 1st respondent is directed to conduct further investigation, it is seen that there were lapses on the side of the investigating agency in conducting the said investigation more particularly with regard to the manner of the occurrence. Hence, implication of the petitioner is not warranted at this stage. Apart from that there is no specific allegation against the petitioner in complaint. Thus the criminal proceedings based upon improper investigation would cause grave injustice to the petitioner. Therefore the reason stated by the petitioner is justifiable, and hence, proceedings against the petitioner is ordered to be quashed.

10. Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pbl

To

1. The Principal District and Sessions Judge,
Salem.
2. The Inspector of Police,
Hasthampatty Police Station,
Salem City.



3. The Public Prosecutor,
Madras High Court,
Chennai.

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+2ccs to Mr.MA.Gouthaman, Advocate, S.R.No.35470
+1cc to Mr.AE.Ravichandran, Advocate, S.R.No.36133

Crl.O.P.No.34055 of 2019

GPL (CO)
PM/30/06/2022