



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.6071 of 2021

and

Crl.M.P.(MD)No.3479 of 2021

M.Krishnamoorthy

... Petitioner/
Accused No.1

Vs.

1.The State represented by
The Inspector of Police,
Thathaiyangarpet Police Station,
Trichy.
(Crime No.75 of 2018)

... 1st Respondent/
Complainant

2. Ashok Kumar,
Village Administrative Officer,
Araichi, Musiri,
Trichy.

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in pursuant to the FIR in Crime No.75 of 2018 pending on the file of the first respondent police and quash the same.

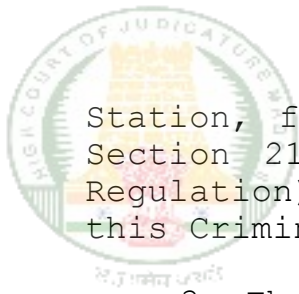
For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R.1

ORDER

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

2. The petitioner is figuring as first accused in Crime No.75 of 2018, registered on the file of the Thathaiyangarpet Police



Station, for the offences under Sections 353, 307 and 379 IPC and Section 21(1) of Tamil Nadu Mines and Minerals (Development and Regulation) Act, 1957. To quash the FIR as far as he is concerned, this Criminal Original Petition has been filed.

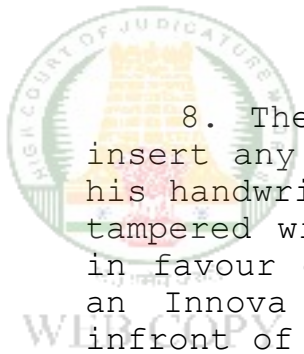
3. The case of the prosecution is that on 13.07.2018 at around 06.00 a.m, the defacto complainant, who is the Village Administrative Officer, Araichi, Musiri Taluk, Trichy District, was with the police team which was engaged in routine vehicle checking. At that time, a lorry bearing Registration No.TN 48 R 6566 was coming towards Namakkal. When the lorry was intercepted and stopped, three persons who were travelling in an Innova car bearing Registration No.TN 28 AC 9779 got down from the car and challenged the inspecting team. When the defacto complainant stated that he wanted to search the vehicle, they told that they were transporting river sand illegally and challenged the public servants. They picked up quarrel with them and even attempted to dash against them. Thereafter they left the place. On enquiry, defacto complainant came to know that those three persons are Krishnamoorthy/the petitioner herein, Nagarathinam and Ajith Kumar, son of the petitioner herein. The lorry along with four units of river sand was seized and handed over to the Police Station. Based on the complaint of the Village Administrative Officer, a case in Crime No.75 of 2018 was registered.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to exonerate the petitioner herein.

5. Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that no case for quashing has been made out.

6. I carefully considered the rival contentions and went through the materials on record.

7. The learned counsel appearing for the petitioner submitted that though the printed FIR appears to directly implicate the petitioner herein, it does not reflect the truth. According to him, the defacto complainant gave some other complaint and there were erasures, over writing and substitution of names. In order to satisfy my conscience, I called for the original record. The original complaint had been submitted before the jurisdictional Court. The learned Judicial Magistrate, Thuraiyur forwarded the relevant papers. On going through the original complaint, it was obvious that there has been erasures and addition of names. Against the petitioner, departmental action was taken and the defacto complainant herein was examined as a witness before the disciplinary authority. Copy of the deposition made in the disciplinary proceedings has been enclosed in the typed set of papers.



8. The defacto complainant herein had stated that he did not insert any name in the complaint and the inserted lines are not in his handwriting. I am satisfied that the original complaint has been tampered with. But then the benefit of this tampering cannot enure in favour of the other accused. There is no doubt whatsoever, that an Innova car bearing Registration No.TN 28 AC 9779 was going in front of the intercepted lorry. The defacto complainant had stated that three persons got down from the car and challenged them. The said Innova car is standing in the name of the petitioner's son Ajith Kumar. It is also stated that though in the FIR, A.2 / Nagarathinam has been mentioned as the lorry owner, the lorry owner appears to be one Sakthivel. Saravanan / A.4 was driving the Innova car. Even according to the defacto complainant, three persons got out of the Innova car. Those three persons are apparently A.2, A.3 and A.4. The petitioner's name appears to have been unnecessarily included in the FIR without any basis.

9. Therefore, while filing the final report, the first respondent is directed not to include the name of the petitioner herein. This Criminal Original Petition is allowed on these terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate,
Thuraiyur.

2.The Inspector of Police,
Thathaiyangarpet Police Station,
Trichy.

3.The Village Administrative Officer,
Araichi, Musiri,

<https://hcservices.ecourts.gov.in/hcservices/>



4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,Criminal Records,
Madurai Bench of Madras High Court,
Madurai.(For Returing the Original records)

+1 CC to M/s.G. THALAIMUTHARASU, Advocate (SR-676[F] dated
06/01/2022)

Crl.O.P.(MD)No.6071 of 2021
and
Crl.M.P.(MD)No.3479 of 2021
05.01.2022

MGJ(27.01.2022) 4P 7C