



***Crl.O.P.(MD)No.11172 of 2022***

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**WEB COPY**

**RESERVED ON: 04.07.2022**

**DELIEVERD ON: 13.07.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**Crl.O.P.(MD)No.11172 of 2022**

**and**

**Crl.M.P.(MD).Nos.7039 and 7040 of 2022**

**A.Joe Infant Xaveo**

**... Petitioner**

**Vs.**

**1.The State through  
The Inspector of Police,  
Central Police Station,  
Tuticorin District.  
Crime No.143 of 2018.**

**2.Karthikeyan,**

**...Respondents**

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.245 of 2018 pending on the file of the learned Judicial Magistrate II, Tuticorin, Tuticorin District and quash the charge sheet in STC No.245 of 2018 pending on the file of the learned Judicial Magistrate II, Tuticorin, Tuticorin District against the petitioner.



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For Petitioner : Mr.K.A.Raamakrishnan  
For Respondents : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor.

### **ORDER**

The petitioner/accused filed this Criminal Original Petition challenging the criminal proceedings in S.T.C.No.245 of 2018 on the file of Judicial Magistrate II, Thoothukudi, on the ground that, the continuation of criminal proceedings is of abuse process of law.

2. The facts of the case are that the petitioner is an accused in S.T.C.No.245 of 2018 on the file of Judicial Magistrate – II, Thoothukudi. The Sub Inspector of Police, the second respondent herein, gave a complaint on 07.05.2018, to the first respondent Police alleging that while the complainant along with his Police men doing their patrol work, on 07.05.2018 at about 6.00 p.m., near Indian Chamber of Commerce and Industry Office, the petitioner by parking his Hyundai I 20 car before the Office hearing the songs in a high sound, thereby, causing disturbance to the public. Hence, the second respondent warned the petitioner, not to disturb the public and asked him to move from the place. For that, the petitioner scolded the second respondent in



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abusive language and criminally intimidated and causing trouble and preventing the second respondent from discharging his official duties. In this regard, the second respondent preferred a complaint against the petitioner. Based on the complaint, on 07.05.2018, a case was registered in Crime No.143 of 2018 for the offences under Sections 294(b), 353, 506(i) IPC. After investigation, the first respondent Police filed the charge sheet before the Judicial Magistrate – II, Thoothukudi District which was taken on file in S.T.C.No.245 of 2018. Aggrieved over the same, the present Criminal Original Petition has been filed.

3. The learned counsel for the petitioner submitted that the allegation stated in the complaint is not satisfied the requirement of the ingredients of the offence. He further submitted that no evidence is recorded by the Police to support the prosecution case. The Police relied upon the witnesses 2 to 4, they are falsely supporting the Police case, as the complainant be the Sub Inspector of Police. He further submitted that the Police in the final report had not mentioned the alleged Hundai I 20 car registration number and particulars of the owner of the vehicle. Further, the alleged Hyundai I 20 car was not seized by the Police during the investigation. Further, the complainant Police continued his public work and his work was not prevented by the petitioner.



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There is no evidence recorded by the Police to show that any criminal force had been used by the petitioner towards the second respondent and further the ingredients of 294 (b) IPC is also not made out and further the complainant, being a Police and standing along with other Police men, the petitioner may not threaten the complainant and also he may not criminally intimidate the Police. Therefore, all the offences are not made out and under these circumstances, continuing the criminal proceedings is abuse of process of law. To support his arguments, the learned counsel of the petitioner relied upon the Division Bench of the Apex Court in the case of ***The Manik Taneja and another Vs. the State of Karnataka and another reported in (2015) 7 SCC 423*** and in the case of ***R.Ramesh and another Vs. The State represented by the Station House Officer, Pondicherry reported in CDJ 2016 MHC 1424*** and in the case of ***Vijay Vs the State of Inspector of Police, Panagudi Police Station, Tirunelveli District in Crl.O.P.(MD).Nos.8680 and 8681 of 2019*** of this Court.

4. The learned Additional Public Prosecutor appearing for the respondents submitted that on 07.05.2018, the complainant being a Sub Inspector of Police along with other Police men patrolling the traffic before the Indian Chamber of Commerce and Industry Office. The petitioner herein while parking his Hyundai I 20 car played the song by raising the sound in high pitch



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inside the car, thereby, causing nuisance to the nearby standees and public.

While regulating the traffic, the complainant, Sub Inspector of Police warned the petitioner accused to reduce the volume of sound and to avoid the traffic jam, he asked the petitioner accused to move away from the place. For that, the petitioner scolded the second respondent in abusive languages and threatened the second respondent with criminal intimidation and thereby, preventing him from discharging his duties. Hence, the complaint has been given and the case has been registered. After investigation, the final report has been filed and it was taken on file, which is on trial. He further submitted that the incident is evidenced by the witnesses namely, S.Senthilvinayagam L.W.2, Ponsingh L.W.3, Rajkumar L.W.4. These three witnesses clearly stated in their statement, about the over tact of the petitioner in committing the crime. He further submitted that the case is now pending for trial. However, the counsel for the petitioner denied the allegations contained in the complaint and the witnesses statement and the charge. The truthfulness of allegations has to be testified by examine the witnesses before the Trial Court. Without conducting trial, the criminal proceedings cannot be quashed and the judgments relied on by the petitioner are factually distinguishable. In this case, the Sub Inspector of Police is prevented from discharging his public duty of maintaining the traffic in the particular area on the particular date. Therefore, quashing the criminal



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proceeding is un-sustainable and thus, the learned Additional Public Prosecutor pleaded to dismiss the Criminal Original Petition.

5. I have considered the matter in the light of the submissions made by the learned counsel for both the parties.

6. On perusal of the available records, the fact reveals that it is not disputed that the case has been registered against the petitioner accused in Crime No.143 of 2018 for offences under Sections 294(b), 353, 506(i) IPC for having committed the offence of using abusive words and criminal intimidation and thereby, preventing the Sub Inspector of Police from discharging his duties. After investigation, the final report was filed and it was taken on file in S.T.C.No.245 of 2018 before the Judicial Magistrate-II, Thoothukudi and now, it is for trial.

7. The exercise of inherent powers would depend on the facts and circumstances of each case. Therefore, I have considered the facts available on records against the petitioner accused.



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8. The Courts exist for dispensation of justice and not for its denial for technical reasons when law and justice otherwise demand.

9. In the present case, the alleged occurrence took place before the Indian Chamber of Commerce and Industry Office. On 07.05.2018, at about 6.00 p.m., the accused while parking his Hyundai I 20 car before the aforesaid Office hearing the songs in a high sound, thereby, causing nuisance to the public. At that time, the second respondent Police along with his other Police men discharging their duties by regulating the traffic. Hence, the second respondent warned the accused, not to disturb the public and asked him to move from the place. For that, the petitioner scolded the second respondent in abusive language and criminally intimidated and causing trouble and preventing the second respondent from discharging his official duties. In this regard, the case has been registered and final report also be filed and it was taken on file as S.T.C.No.245 of 2018 before the learned Judicial Magistrate-II, Thoothukudi.

10. In the present case, the evidence collected by the investigating officer by recording the statement of the prosecution witnesses is filed along with the charge sheet and the same was duly considered. I find there is a clear statement of witnesses to show that a *prima facie* case is indicated for trial. The



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proceedings can be quashed only if taking the facts, as they are alleged in the complaint, no offence is made out. But in the present case, it is alleged that the petitioner accused by parking his car rising the sound of the song and caused disturbances to the public. While questioning that, the Sub Inspector of Police was abused with filthy languages and criminally intimidated and thereby, prevented him from discharging his duties. This allegation is disputed by the petitioner accused as wrong.

11. In this connection, it will be appropriate to remember the legal principles and observations made by the Hon'ble Supreme Court in the case of ***State of Haryana and others Vs.Bajanlal and others reported in (AIR 1992 SC 604)*** and in subsequent cases.

12. Allegations of legal infractions and criminal infractions must be investigated in accordance with law and procedure established under the Constitution. In the present case, on perusal of the final report and the statement of witnesses shows that *prima facie* an offence and the allegation made therein will have to be taken on the face value. If it could not be said that their prosecution would amount to an abuse of process of the Court, therefore, invoking inherent power, prior to the commencement of trial and leading of



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evidence, to quash the prosecution is not desirable. Power should be exercised only in exceptional cases. The judgments relied on by the petitioner are being factually distinguishable and I find it is not helpful to the petitioner in this case. Hence, I find no merits in this Criminal Original Petition. It is liable to be dismissed.

13. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

**13.07.2022**

Index : Yes / No  
Internet : Yes/ No  
Nsr

To

1.The Inspector of Police,  
Central Police Station,  
Tuticorin District.

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



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**V.SIVAGNANAM, J.**

Nsr

**Pre-Delivery Order made in**  
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