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CrI.O.P.No.2297 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.2297 of 2023

and

CrI.M.P.Nos.1259 & 1260 of 2023

Noor Mohamed Ismail
Petitioner

...

/vs/

1. The State Represented by,
Inspector of Police,
D-2, Anna Salai Police Station,
Law & Order Branch, Chennai – 600 002.

2. Syed Mohamed

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the final report in C.C.No.704 of 2021 on the file of the learned 2nd Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner

... Mr.J.Pranav Reddy

For Respondent

... Mr.S.Santhosh (For R1)

Government Advocate (CrI.side)



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Crl.O.P.No.2297 of 2023



ORDER

This Criminal Original Petition has been filed seeking for a direction to call for the entire records pertaining to the final report in C.C.No.704 of 2021 on the file of the learned 2nd Metropolitan Magistrate, Egmore, Chennai and quash the same.

2. The learned counsel for the petitioner submitted that the allegations made in the complaint and FIR show that, the incident had happened on 30.12.2020 at about 04.00.P.M. However, it is seen that petition was registered at 2.00 P.M., on the same day in C.S.R.No.448 of 2020. Petitioner and one Saagul Ameen are blood brothers. The defacto complainant/ Syed Mohamed is a son of Saagul Ameen. There is a partition suit in O.S.No.748 of 2002 was filed and disposed between the parties. Subsequent to the suit, defacto complainant's father executed settlement in respect of the disputed of property, however, suit was allowed in favor of the petitioner. Suppressing all these facts, false complaint has been given against the petitioner.



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Crl.O.P.No.2297 of 2023



3. In response, learned Government Advocate (Crl. Side) submitted that, out of ten witnesses, eight witnesses had already been examined in this case. Witnesses had supported the case of the prosecution and thus prayed for dismissal of the petitioner.

4. Considered the rival submissions and perused the records. It is seen from the complainant allegations that on 30.12.2020 at about 04.00 PM., defacto complainant's father with the help of camera technician was fixing the CCTV camera wires. Petitioner attacked the defacto complainant's father questioning that why he was making arrangements for fixing CCTV camera before his house. He also made threat that he would evict the defacto complainant and his family members with the help of henchmen and also made death threat. On the basis of this, complaint was given and the same was registered in Crime NO.02 of 2021. Investigation was completed and final report was also filed.

5. It is true that the relationship between the parties is not mentioned in the complaint. It is also true that, in the body of the complaint, it is alleged that the incident had happened at 4 PM on 30.12.2020 and the



complaint was recorded at 2 PM on the same day and the receipt No.448 of 2021 was given. Suppressing the relationship between the parties is not a ground for quashing the case. However, it is apparent that there is a contradiction with regard to the time. How the petition can be registered at 2 PM for the offence which had been committed at 4 PM on the same day. This Court is of the view that this contradiction has to be clarified from the witnesses or Investigating Officer. In view of the fact that, trial in this case is almost completed and also that, witnesses had supported the case of the prosecution, this Court is not inclined to quash the proceedings in C.C.No.704 of 2021.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

03.02.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non speaking order
Sma



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Crl.O.P.No.2297 of 2023

G.CHANDRASEKHARAN, J.

Sma

To

1. Inspector of Police,
D-2, Anna Salai Police Station,
Law & Order Branch, Chennai – 600 002.
- 2.The Public Prosecutor,
High Court, Madras.

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