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CrI.O.P.No.2726 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**CrI.O.P.No.2726 of 2021**  
**and**  
**CrI.M.P.Nos.1512 & 1514 of 2021**

N.Rejendran

... Petitioner

Vs.

Thiru R.Rejendran  
Revenue Divisional Officer,  
Tondiarpet Division  
No.473 Thiruvotriyur High Road,  
Tondiarpet,  
Chennai - 600081.

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to C.C.No.3480/2020 on the file of the Xth Metropolitan Magistrate Court, Egmore, Chennai and quash the same as against the petitioner/Accused.

For Petitioners : Mr.S. Shunmugavelayutham, Senior Advocate

For Respondent : Mr.A,Damoharan, Addl. Public Prosecutor.



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## **ORDER**

The petition is to quash the complaint filed by the respondent herein against the petitioner in C.C.No.3480 of 2020, on the file of the Xth Metropolitan Magistrate Court, Egmore, Chennai.

2. It is alleged in the complaint that the petitioner along with few other police officers had gone to the house of one S.Thirunavukkarasu on 10.06.2012 at about 11 p.m.; that they had come in search of his brother Boopalan; that since Boopalan was not available at the residence, they had attacked the said Thirunavukkarasu and caused injuries all over his body; that thereafter, the said Thirunavukkarasu was brought to the police station at Vyasarpadi and he was subjected to custodial torture; that the police personnel had taken him to a private hospital with a view to prevent him from getting admitted into Government hospital; that thereafter, they had prevented the victim from going out of his house; that subsequently after the intervention of the officials, the victim was admitted to a Government Hospital, Mannady on 11.06.2013; that victim thereafter preferred a complaint. Based on the complaint, an RDO enquiry was conducted and on his report, the Government gave permission to the respondent to file a



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complaint for the offences under Sections 448, 294(b), 341, 323, 324, 506(ii) of IPC.

3(a). The learned Senior Counsel for the petitioner would submit that in the impugned complaint and in the other supporting materials relied upon by the complainant, there is nothing to show that the petitioner was also involved in the alleged attack. In fact, the respondent has filed a counter which reads as follows:-

*" Though his name was not mentioned in either the complaint or in the Writ Petition, the Government have confirmed the involvement of the petitioner in the crime furnished the name of the petitioner as one of the accused. Hence, his name has been impleaded as an accused in the said C.C.No.3480 of 2020."*



b. He would further submit that the RDO report also records the fact that the victim Thirunavukkarasu had not made any allegation against the petitioner. However, the petitioner has been included in the RDO report on a surmise that he may have been involved in the alleged occurrence. The learned Senior counsel also pointed out that in the entire report there is no allegation against the petitioner to show his involvement in the alleged occurrence.

4. The learned Government Additional Public Prosecutor would submit that the petitioner is an Inspector of Police of, P.5, MKB Nagar Police Station and this incident could not have happened without his knowledge. The RDO and the Government were conscious of the said fact and hence accorded sanction to prosecute the petitioner. The question as to whether the petitioner is guilty of the act of custodial torture or not has to be adjudicated only in the Trial Court and hence prayed for the dismissal of the quash petition.



5. This Court finds that admittedly the victim has not named the petitioner. This is confirmed by the counter filed by the respondent. The claim of the Government is that they had confirmed the petitioner's involvement in the alleged crime. However, this appears to be a mere *ipse dixit* of the deponent of the counter filed and there is no material to show as to how the Government and the complainant had come to the conclusion that the petitioner was also involved in the alleged occurrence. It is well settled that there cannot be vicarious liability for offence of this kind. In the absence of materials to implicate the petitioner, the petitioner cannot be prosecuted merely on the basis that the Government had confirmed the involvement of the petitioner. Such confirmation has to be backed with prima facie evidence. Neither the counter nor the complaint points out the material on the basis of which the Government had come to such a conclusion. In view of the same, the impugned complaint as against the petitioner cannot be sustained and hence the complaint in so far as the petitioner alone is concerned is liable to be quashed.



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6. Accordingly, the Criminal Original Petition stands allowed.

Consequently, the connected Miscellaneous Petitions are closed.

**06.04.2023**

Index : Yes/No  
Internet : Yes/No  
Neutral Citation :Yes/No  
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To

1. The Xth Metropolitan Magistrate Court, Egmore, Chennai.
2. Thiru R.Rejendran  
The Revenue Divisional Officer,  
Tondiarpet Division,  
No.473, Thiruvotriyur High Road,  
Tondiarpet,  
Chennai - 600081.

**SUNDER MOHAN. J,**



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