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Crl.OP.No.7328 of 2022

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.7328 of 2022 and
Crl.MP.No.4198 of 2022

Thirumuruga Veerapandiyar

... Petitioner

Vs.

1.The State

Rep by its Inspector of Police,
Fairlands Police Station,
Salem District

2.K.Sivaraj

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records from the first respondent pertaining to the impugned FIR No.191 of 2019 on the file of the Fairlands Police Station, Salem District and to quash the same.

For Petitioner

: Mr.P.Vijendran

For Respondents

For R1

: Mr.A.Gopinath,
Government Advocate(Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in crime No.191 of 2019 on the file of the first respondent registered for the offences under Section 392 of IPC as against the petitioner.



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2. The crux of the allegation is that on 29.09.2019 at about 5 p.m., when the second respondent was proceeding to his house, the petitioner waylaid him at knife point and snatched his half sovereign ring and vivo cell phone. Hence, the complaint. On receipt of the said complaint, the first respondent registered FIR.

3. On perusal of records, the mother of the petitioner filed habeus corpus petition before this Court in HCP.No.2147 of 2019. On perusal of the affidavit filed in support of the petition, revealed that the petitioner was prevented from contesting the election for Village Panchayat President. All the general public gathered and proposed his name for the post of President of Athanurpatti Village, thereby he filed his nomination and he was elected Panchayat President. Even though he was elected as Panchayat President, he was not allowed to take oath as President. Therefore, the petitioner was constrained to file a writ petition before the Hon'ble Division Bench of this Court. This Court in WP.No.26342 of 2011 dated 18.11.2011, directed the Block Development Officer to swear him as President. Further, this Court also granted injunction as against the Inspector of Police, Vazhapadi Police Station not to harass the petitioner. However, he was arrested in front of the Block Development Officer, Vazhapadi and as such, the sister of the petitioner filed



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petition seeking further direction. Accordingly, this Court directed the Block Development Officer to swear him as President on 16.12.2011. Once again, no oath was administered to the petitioner and as such, contempt petition was filed in contempt petition No.1947 of 2011 for violation of the order passed by this Court. In the contempt petition, the Inspector of Police, Vazhapadi was convicted by this Court and imposed fine for contemptuous act.

4. Therefore, in order to wreak vengeance as against the petitioner, immediately, the Inspector of Police, Vazhapadi Police Station invoked preventive preventive detention order dated 27.12.2011 as against the petitioner. The petitioner challenged it in HCP.No.27 of 2012 and the same was allowed by this court by order dated 01.03.2012. Even then, the Inspector of Police, Vazhapadi Police Station repeatedly registered cases as against the petitioner without committing any fault. In pursuant to the registration of FIR in crime No.189 of 2019 for the offences under Sections 294(b), 342, 365 and 385 of IPC, the petitioner was illegally taken by the first respondent herein on 28.09.2019. In fact, along with the petitioner, other accused persons were arrested. They were remanded to judicial custody except the petitioners herein. Therefore, the mother of the petitioner was constrained to file habeus corpus



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petition in HCP.No.2147 of 2019 before this Court. It was listed before this Court on 30.09.2019. The first respondent reported before this Court that the petitioner was arrested on 30.09.2019 morning in pursuant to the registration of FIR in crime No.189 of 2019. On the date of arrest itself, another FIR has been registered by the first respondent in crime No.191 of 2019 for the offence punishable under Section 392 of IPC. It is under challenge in this petition.

5. Though the Hon'ble Division Bench of this Court recorded the submission of the first respondent, closed the habeus corpus petition stating that the allegations made in the petition that the petitioner was illegally taken to custody by the first respondent even as early as on 28.09.2019 itself. Thereafter, his arrest was shown only on 30.09.2019. Therefore, the present impugned FIR has been registered as against the petitioner with wreak vengeance as against the petitioner. It is nothing but clear abuse of process of law and court and the same cannot be sustained.

6. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***State of Haryana Vs. Bhajan Lal and others*** reported in ***1992 SCC (crl) 426***, wherein the Hon'ble Supreme



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Court of India listed out certain categories of cases including the following

one, in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

7. In view of the above discussion, the impugned proceedings is liable to be quashed. Accordingly, the entire proceedings in crime No.191 of 2019 on the file of the first respondent is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

01.12.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.



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To

1. Inspector of Police,
Fairlands Police Station,
Salem District
2. The Government Advocate,
High Court of Madras

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