



Crl OP No. 6510 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Criminal Original Petition No. 6510 of 2021
and
Crl.M.P. No. 4320 of 2021**

1.Dinesh Kumar
2.Bharat Kumar
3.Kapoorchand
4.Nenmal
5.Mahendra

... Petitioners

Versus

1.The State
Represented by Inspector of Police,
C-1, Flower Bazar Police Station,
Chennai – 600001.

2.Rajender Singh

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records of the proceedings in C.C. No. 110 of 2021 on the file of the VIII Metropolitan Magistrate, George Town, Chennai pending disposal of the Criminal Original Petition.



Crl OP No. 6510 / 2021

For Petitioners : Mr. Govind Chandrasekhar

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For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1.

Mr. S. Santhosh for R2.

ORDER

The petition is to quash the proceedings in C.C. No. 110 of 2021 on the file of the VIII Metropolitan Magistrate, George Town, Chennai filed for the alleged offences under Sections 147, 323, 324 read with 149 of the Indian Penal Code.

2.The learned counsel for the petitioners submitted that the impugned proceedings are liable to be quashed, since the Investigation Officer after conducting investigation, in the case registered against the petitioners and the case filed by one of the petitioners, has filed final report in both the cases; and that this is in violation of the settled position of law; that when there is a case in counter case, it the duty of the Investigation Officer to find out as to who is the aggressor and file final report only against the aggressor; and that if the Investigation Officer is unable to find out, as to who is the aggressor, then action has to be dropped against the accused in both cases.



Crl OP No. 6510 / 2021

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3.The learned Additional Public Prosecutor submitted that on the complaint given by the one of the petitioners, a case in C.C. No. 111 of 2021 is pending trial before the same Court against the second respondent and others for the alleged offence under Sections 341, 323 read with 34 of the Indian Penal Code. The learned counsel for the defacto complainant submitted that this Court in a petition to quash, cannot adjudicate as to which of the two versions is false. Since the first respondent has filed final reports in both the complaints, it is desirable that both the final reports are tried or both are quashed. The learned counsel further prayed that in the event of this Court agreeing to quash the impugned final report, the final report pending against the second respondent and others in C.C. No. 111 of 2021 also may be quashed.

4.It is seen that for the very same occurrence one of the petitioners and the second respondent had given complaints. This has resulted in filing of two final reports. The investigation was conducted by the very same Investigating Officer in both the cases. It is the matter of common sense, that when there are two versions with regard to the same



Crl OP No. 6510 / 2021

occurrence both cannot be true. Either one has to be true or both has to be false. That is the reason for the procedure that is laid down in 566 of the Police Standing Orders, where there are clear instructions to the Investigation Officer, as to how to deal with the cases and counter cases.

5.It is also seen from the series of Judgments relied upon by the learned counsels on either side that merely because the Police Standing Orders is violated, the final reports cannot be quashed as the Police Standing Orders do not have statutory force. However, in the instant case, this Court is not relying upon only the Police Standing Orders for entertaining this petition. Admittedly, in this case, the first respondent has filed two final reports which are contrary to each other. As stated earlier, either both the versions have to be false or one has to be false. The Investigating Officer is required to assess the truth and not act as a mere post office to accept both the versions and file final reports without ascertaining which one of them is true. It is needless to say that the Investigating Officer after collecting the materials during investigation can form an opinion as to whether the version of the complainant is true or not. In the instant case, no such exercise has been done. This Court cannot allow the prosecutions based on the final reports knowing that



Crl OP No. 6510 / 2021

either both the versions have to be false or at least one has to be false.

The learned counsel on either side submit that prejudice is caused to both the parties on account of two final reports.

6. Further, this Court in *Vellapandy Thevar and Others Vs. State rep.by the Inspector of Police, Alangulam Police Station, Tirunelveli Dt.*, reported in *[1984 LW (Crl.) 257]*, after following the Judgment of this Court in *Thota Ramakrishnayya & Others Vs. The State* reported in *AIR 1954 Mad 442* had held as follows:

“7.As pointed out by this Court in Thota Ramakrishna v. State, AIR 1954 Mad 442.

“It is improper for the police to prosecute the same time two counter cases in regard to the same occurrence one of which must be false. It is improper also and disrespectful to the court for the Public Prosecutor to conduct both cases in the sessions court knowing that one must be false. Such counter-cases cannot both be prosecuted honestly either by the police or the public prosecutor.”



Crl OP No. 6510 / 2021

7.This Court on a reading of the final report in the instant case finds that in view of the two final reports, prejudice has been caused to both the parties. In such circumstances, in view of the prayer made by the learned counsels on either side that both the final reports may be quashed, this Court is inclined to quash both the final reports in the interest of justice. Therefore, for all the above reasons, both the final reports in C.C. Nos. 110 & 111 of 2021 on the file of the VIII Metropolitan Magistrate, George Town, Chennai are quashed in the interest of justice, as there cannot be two final reports giving contrary versions for the same incident.

8.Accordingly, this Criminal Original Petition is allowed.
Consequently, the connected Criminal Miscellaneous Petition is closed.

21.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To



Crl OP No. 6510 / 2021

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1.The Inspector of Police,
C-1, Flower Bazar Police Station,
Chennai – 600001.

2.The VIII Metropolitan Magistrate,
George Town,
Chennai.

3.The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J

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WEB COPY



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