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Crl.O.P.No.25103 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.11.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25103 of 2023

and

Crl.M.P.Nos.17409 & 17410 of 2023

S.Balamurugan

... Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Muthapudhupet,
Avadi, Chennai-55.

2.Marisamy

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the entire records connected with the charge sheet in C.C.No.30 of 2018 pending on the file of the learned Judicial Magistrate, Ambattur, Thiruvallur District and quash the same in so far as the petitioner/A3 in concerned.

For Petitioner : Mr.K.Thilageswaran

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to quash the criminal case pending against him in C.C.No.30 of 2018, on the file of the Judicial



Magistrate, Ambattur. The petitioner is arrayed as 3rd accused in this case for the alleged offences under Sections 294 b, 323, 336, 422, 392 and 506(ii) IPC.

2. The learned counsel appearing for the petitioner contends that the petitioner is an innocent person resident of Madurai. On 27.04.2017, he was forcibly taken by men in civil dress, later came to know that they are police and he was kept in unidentified place and thereafter, on 30.04.2017, he was produced before the Judicial Magistrate, Ambattur implicating him in the case under Crime No.610 of 2017 registered on the complaint given by one Marisamy.

3. The learned counsel further submitted that regarding his missing, a complaint was given by his wife at Koodalpudhur police station, Madurai and same was registered on 29.04.2017 and later he got released on bail. In the present case, he had given a representation to the higher officials about the false complaint against him. In spite of that the police has proceeded to file the final report and hence it is liable to be quashed on the ground of malicious prosecution.



4. On reading the FIR, wherein the petitioner been identified as Bala. In the extract of the details of the accused is in column 9, he is identified as Bala at Madurai which the defacto complainant could not have knowledge. However, the learned counsel for the petitioner also submitted that the name of the petitioner is Balamurugan and never called as Bala. Further, the learned counsel also submitted that the police on suspicion has roped him as an accused in the case since his name, phone number and other details was in possession of the 1st accused Rafiq, who came to know when the petitioner mother was in Puzhal prison in connection with forgery of passport.

5. This Court after perusing the records and Section 161 Cr.P.C., statement of the witnesses does not find any force in the statement made by the learned counsel for the petitioner to entertain the quash petition on the ground of malicious prosecution. The alibi, mistaken identity and malafide intention to foist the case against him as contended by the petitioner herein does not form any basis to arrive at conclusion for quashing the final report. The material collected by the Investigating Officer sufficiently discloses prima facie case to proceed against this petitioner and his presence at



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Ambattur on the date of occurrence and subsequent arrest followed by producing him before the Judicial Magistrate on the same day coupled with Section 161 Cr.P.C., statement of the witnesses to the occurrence warrants a fullfledged trial and not trunkated examination of witnesses under Section 482 Cr.P.C. Hence this Criminal Original Petition is dismissed. Consequently, the connected Crl.M.Ps are also dismissed.

08.11.2023

Index : Yes/No
Neutral Citation : Yes/No
rpl

To

1.The Judicial Magistrate, Ambattur, Thiruvallur District.

2.The State Rep.by
The Inspector of Police,
Muthapudhupet,
Avadi, Chennai-55.

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



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Dr.G.JAYACHANDRAN, J.

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