



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.28120 of 2019
and Crl.M.P. No.15060 of 2019

N.Vijaya Basker

... Petitioner / sole accused

Vs.

1. State Rep. by
The Sub-Inspector of Police,
Traffic Investigation Wing,
Pondy Bazar Police Station,
Chennai.

2. B.Sekar

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the complaint in connection with Crime No.327 of 2019 on the file of the Sub-Inspector of Police, Traffic Investigation Wing, Pondy Bazar Police Station, Chennai and quash the same.

For Petitioner	: Mr.S.Anil Sandeep
For Respondents-1	: Mr.A.Gopinath
	Government Advocate
R2	: No appearance



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ORDER

This petition has been filed to call for the records relating to the complaint in connection with Crime No.327 of 2019 on the file of the first respondent and quash the same

2. The petitioner is the sole accused in Cr. No.327 of 2019. The second respondent / defacto complainant is a Sub-Inspector of Police, Traffic Enforcement Wing at the relevant point of time. The allegation made in the FIR is that on 05.10.2019 at about 11.45 p.m, when the second respondent involved in vehicle inspection, the petitioner who is an advocate by profession was found driving his Spendor Plus two wheeler bearing Reg.No.TN-30-D-1824 in a rash and negligent manner and hence the second respondent intercepted him. When the second respondent was about to register a case against the petitioner, the petitioner abused the second respondent in filthy language and also tried to assault him and another SSI by name Karuppiah. On the basis of the above allegation, a case has been registered against the petitioner in Cr. No.327/2019 for the offences under Section 294B, 353 and 506(i) IPC and 184 of Motor Vehicles Act.



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3. The learned counsel for the petitioner submitted that on 05.10.2019 at about 11.45 p.m., the petitioner followed another two wheeler ridden by his wife in which his daughter was a pillion rider; they have been returning home after attending a function; at that point of time the petitioner was intercepted by the second respondent and there was an altercation; in fact on that very same day itself the vehicle of the petitioner was seized and was taken to the police station; the occurrence is said to have occurred just near R4, Pondy Bazaar Police Station, but FIR has been registered only on 07.10.2019 i.e. after two days of the alleged occurrence; the altercation between the petitioner and the second respondent was videographed by some media person and the same went viral in social media; on seeing the video clippings, public started to make comments by condemning the light handedness of the police; only consequent to that, a First Information Report has been registered on the exaggerated allegations; since the occurrence is unbelievable and the averments in the FIR does not disclose any criminal offence, the FIR should be quashed.



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4. The learned Government Advocate (Crl.side) submitted that the petitioner being an Advocate should abide law; when he was intercepted during vehicle inspection, he ought to have answered responsibly without abusing police; since the petitioner had behaved in a rude manner and obstructed the second respondent from discharging his duty as a public official, the second respondent was forced to give a complaint and on which a case has been registered. Since the allegations in the FIR makes out a criminal case against the petitioner, investigation should be allowed to continue.

5. As per the complaint given by the second respondent, the occurrence is said to have occurred at about 11.45 p.m., on 05.10.2019 near Pondy bazaar. The second respondent is said to have been on duty from 9.00 p.m. To 12.00 p.m. It is staed that as per the orders of his Superior, the second respondent involved in the vehicle check-up and during that time he found the petitioner driving his vehicle in a rash and negligent manner. The petitioner who followed the vehicle in which his wife and daughter travelled could not have come in a rash and negligent manner. Because the very object of following the other vehicle by him is



to ensure that they reach home safely.

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6. The petitioner had furnished certain newspaper report about the incident in which it is stated that the petitioner had driven the vehicle without helmet and he was under the influence of alcohol and when the traffic police asked him to produce licence and other documents related to his two wheeler, he quarreled with the police. Admittedly the second respondent had not alleged that the petitioner was under the influence of alcohol or that he did not possess required documents. It is difficult to believe that at odd hour at about 11.45 p.m. the petitioner came in a rash and negligent manner. During that odd hour the roads would be normally empty and hence speed or rashness to overtake any other vehicle is just an improbability.

7. As rightly pointed out by the learned counsel for the petitioner the petitioner was said to have intercepted on 05.10.2019 but FIR has been registered only on 07.10.2019 at 08.15 p.m. There is approximately two days delay in registering the FIR. The second respondent / defacto complainant is none other than the police official and the R4-Pondy



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Bazar police station is just nearby to the place of occurrence. Even though the vehicle of the petitioner was seized on 05.10.2019 and was kept in police station as it is seen from the photographs furnished by the learned counsel for the petitioner, no case has been registered against the petitioner for any offence till 07.10.2019. Some of the documents which have been produced would also show that some video clippings regarding the occurrence went viral on social media and on which various comments have been made.

8. The wife of the petitioner is also an Advocate. There cannot be any second thought about the duty of the Traffic Police who has to mind the vehicles which violate traffic rule and regulate the traffic. But when someone is intercepted at 11.45 p.m. and the said person is travelling in a vehicle along with his family, it is obvious that the person could not be under the influence of alcohol or handle the vehicle at an over speed. The petitioner and his wife being Advocates, would have defended themselves by stating that the interception is unnecessary and that could have resulted in a quarrel between the second respondent and the petitioner. Having waited for two days the second respondent had opted



to register the complaint on 07.10.2019.

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9. The circumstances of the case and the position of the petitioner and second respondent would show that there can be elements of exaggeration and after-thought in the complaint given by the second respondent. The petitioner had lost the advantage of spontaneity because of the delay in registration of FIR. In fact on 05.10.2019 or 06.10.2019 neither the first respondent nor the traffic wing had booked the petitioner for any traffic violation. But it is alleged in the FIR that only for the traffic violation, the second respondent had intercepted the petitioner. Since the allegations made in the complaint itself is self-defeating and the delay makes the complaint as unbelievable and exaggerated in the circumstances already stated, I feel it is appropriate to quash the proceedings.

10. In view of the above stated reasons, this Criminal Original Petition is allowed and the FIR in Cr. No.327/2019 on the file of the first respondent is quashed.

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Index : Yes/No
Speaking Order : Yes / No
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WEB COPY To:

1. The Sub-Inspector of Police,
Traffic Investigation Wing,
Pondy Bazar Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

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R.N.MANJULA, J.,

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