



Crl.O.P(MD).No.3416 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 03.04.2023

Delivered On : 24.04.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.3416 of 2020

and

Crl.M.P.(MD)No.1808 of 2020

Ganesan

...Petitioner

Vs

The Sub-Inspector of Police,
Alangulam Police Station,
Thenkasi District.
(Crime No.374 of 2019)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in S.T.C.No. 1168 of 2019 pending on the file of the learned Judicial Magistrate, Alangulam and quash the same.

For Petitioner

: Mr.C.Christopher

For 1st Respondent

: Mr.M.Sakthi Kumar

Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the chargesheet in S.T.C.No.1168 of 2019, on the file of the learned Judicial Magistrate, Alangulam.



CrI.O.P(MD).No.3416 of 2020

WEB COPY

2.The case against the petitioner is that on 30.09.2019, at about 06.30 p.m., when the police are engaged in duty, the accused was causing nuisance by using filthy language in the public place and a case against the petitioner was registered in Crime No.379 of 2019 under Section 291 of IPC.

3.On the side of the petitioner, it is stated that to make an offence under Section 291 of IPC, there must be injunction order against the accused issued by the public servant. In this case, no injunction order was passed against the petitioner. The complaint was lodged by the SI of Police, Alangulam Police Station. He should not have proceeded with the investigation of the case. But he filed a final report in this case. No independent witness was examined and prayed the case to be quashed.

4.On the side of the petitioner, it is stated that a private case was lodged against the Police personals by the petitioner. Only on that motive, a false case was foisted against the petitioner. It is stated that only prima facie case under Section 290 of IPC was attracted and the offence was not cognizable offence and the police failed to get the permission of the learned Judicial Magistrate under Section 161 of Cr.P.C.



CrI.O.P(MD).No.3416 of 2020

WEB COPY

5.The learned counsel for the petitioner would rely upon a judgment of the Supreme Court in the case of *Selvam and others v. State* reported in **2021 0 Supreme (Mad) 2535**.

6.The learned counsel for the petitioner would rely upon a judgment of the Supreme Court in the case of *Rajeswar v. State* reported in **1991 0 Supreme (Mad) 86**.

7.On the side of the prosecution, it is stated that the petitioner was standing in a public place causing nuisance to the public. Though he was warned by the Police, he continued to repeat doing the same. Hence, a case under Section 291 of IPC was instituted against the petitioner.

8.On the side of the respondent, it is stated that there is no such prior complaint lodged by the petitioner against the police personal. On the side of the petitioner, it is admitted that there was no case against the police but the petitioner has sent a complaint to the higher police officials. The respondent is a public servant, who is having the right to prohibit the petitioner not to



Crl.O.P(MD).No.3416 of 2020

continue the nuisance. Hence, the contention of the petitioner is not maintainable. Whether Section 291 of IPC is applicable to the case can be decided only after the trial.

9.In the above circumstances, this Criminal Original Petition is **dismissed**. Consequently, connected miscellaneous petition is closed.

24.04.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

- 1.The Sub-Inspector of Police,
Alangulam Police Station,
Thenkasi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P(MD).No.3416 of 2020

R. THARANI,J.

Mrn

Crl.O.P(MD).No.3416 of 2020

24.04.2023