



Crl.O.P(MD).No.8385 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.8385 of 2020

and

Crl.M.P.(MD)No.3962 of 2020

T.Michael Stanis Prabhu

...Petitioner

Vs

1.The State Rep. by,
The Inspector of Police,
South Police Station,
Thoothukudi,
Thoothukudi District.
(Crime No.1422 of 2020)

2.R.Jeyapaul

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in connection with C.C.No.252 of 2017 on the file of the learned Judicial Magistrate No.I, Thoothukudi, Thoothukudi District in Crime No.1422 of 2016 on the file of the Inspector of Police, South Police Station, Thoothukudi, Thoothukudi District and quash the same in respect of the petitioner herein.

For Petitioner	: Mr.R.Anand
	For Mr.J.Sankara Pandian
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl. Side)
For 2 nd Respondent	: Mr.L.Shaji Challan



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ORDER

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This petition is filed to quash the charge sheet in C.C.No.252 of 2017 on the file of the learned Judicial Magistrate No.I, Thoothukudi, Thoothukudi District.

2.According to the petitioner, the first respondent Police registered a case against this petitioner and others in Crime No.1422 of 2016 for the offences under Sections 341, 294(b), 506(ii) and 109 of IPC. Thereafter the first respondent filed final report and the same was taken on file by the learned Judicial Magistrate No.I, Thoothukudi, in C.C.No.252 of 2017. As per prosecution case, the second respondent defacto complainant, who is practicing advocate in Thoothukudi District on 30.11.2016, when he entered into Court campus, he was restrained by the first accused and he abused the defacto complainant in filthy language and threatened that he will put an end to his life. Hence, he lodged a complaint before the first respondent and they registered a case in Crime No.1422 of 2016 and filed final report. In fact even as per the contents of the complaint, only the petitioner is added as accused based on the assumption. No specific overt act was attributed against this petitioner. In order to constitute the offence under Section 109 of IPC, there is no materials available. Hence, the charge sheet is liable to be quashed.



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3.The second respondent filed a counter stating that the grounds raised by the petitioner are not sustainable and the quash petition lacks merits and liable to be dismissed. In order to avoid and escape from the action taken by the Bar Council of Tamil Nadu and Puducherry, the petitioner has filed this petition to quash the charge sheet. This petitioner has more than 23 cases and five serious offences cases. On the date of occurrence, the defacto complainant lodged a complaint and thereby, the police have registered a case and investigated the case. Based on the investigation, they filed final report and as per final report, *prima facie* materials available as against the petitioner. On 13.09.2017 this petitioner filed discharge petition in Cr.M.P.No. 2667 of 2017 and after filing counter by the second respondent, it was withdrawn. Further on 14.05.2019 itself, the second respondent filed application before the trial Court for further investigation and the same is also pending at this stage. This petition is not maintainable and liable to be dismissed.

4.The learned counsel appearing for the petitioner contended that based on the complaint of the second respondent, the first respondent registered FIR in Crime No.1422 of 2016 for the offence under Section 341, 294(b), 506(ii) r/w. 109 of IPC. According to the complaint, there is no specific allegation as



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against this petitioner and based on the assumption, the petitioner's name was also included. Further the prayer in the complaint is to take action against Nagarajan, who was the main accused. In this case, there is no specific averment against this petitioner and the statement of witnesses also does not reveal the involvement of the petitioner. The allegation as against the petitioner is only on the assumption and there is no ingredients to attract Section 109 of IPC. Therefore, the charge against the petitioner is liable to be quashed. According to the final report, the entire allegations is as against the main accused and only under Section 109 of IPC, the petitioner's name has been mentioned. There is no materials to attract Section 109 of IPC.

5.The learned Government Advocate appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered a case in Crime No.1422 of 2016 for the offence under Sections 341, 294(b), 506(ii) and 109 of IPC. Thereafter, the second respondent investigated the case and filed final report. Based on the final report, the trial Court had taken cognizance in C.C.No.252 of 2017 and now the case is pending for trial. Since *prima facie* case is made out as against the petitioner, the case has been charge sheeted and the trial Court has taken cognizance. There is no valid grounds raised by the petitioner to quash the charge sheet. Thereby the petition is liable to be dismissed.



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6.The learned counsel appearing for the second respondent would contend that the A1 waylaid the second respondent and abused filthy language and also criminally intimidated at the instigation of this petitioner and thereby, he lodged a complaint before the first respondent and they registered FIR. Thereafter, they investigated the case and filed final report and as per final report, there are *prima facie* material available to proceed against this petitioner. Further this petitioner already filed petition to discharge the petition in Cr.M.P.No.2667 of 2017 and the same was withdrawn. Thereafter, now filed this petition with false averments and no grounds to quash the charge sheet. The petitioner has to face the trial. Hence, this petition is liable to be dismissed.

7.This Court heard both sides and perused the materials available on records.

8.On perusal of records, it is observed that based on the complaint given by the second respondent, who is practicing advocate in Thoothukudi District, the first respondent has registered a FIR in Crime No.1422 of 2016. The present petitioner is also a practicing advocate in the same Court.

According to the complaint, the allegation is against one Nagarajan. In the



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complaint, it is stated that “இந்த நீதிமன்றத்தில் ஏற்பட்ட குற்ற வழக்கில்

திரு.வ.மைக்கேல் ஸ்டானிஸ் பிரபு (M.S.No.1412/2000) என்பவரின்

தூண்டுதலின் பேரில் இவர் இதை செய்ததாக தெரிகிறது“. There is no specific allegation in the complaint and only on the assumption, this complaint has been lodged. The complainant being a practicing advocate has given complaint against the petitioner without specific allegations and no averments constitute any offence. Based on assumption and without any materials, the complaint was given and the first respondent also without proper investigation filed final report as against this petitioner. For the vague averments based on the assumption, the petitioner need not face the trial and this complaint and charge sheet are abuse of process of Court.

9.Further the learned counsel appearing for the second respondent defacto complainant brought to the knowledge of this Court that further investigation petition is also pending and pending that application, this Court cannot quash the charge sheet at this stage and also brought to the knowledge of this Court that already the same petitioner filed petition before the trial Court for discharge and the same was also withdrawn. Though the petition is pending for further investigation, as per records available before this Court and as per final report, no offence is made out as against this petitioner and thereby, mere pendency of the further investigation petition is not bar to pass



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orders in this petition. In order to prevent the abuse of process of Court, this

Court can invoke power under Section 482 of Cr.P.C., to quash this case.

10.In the above circumstances, as discussed above, this Court is of the opinion that the charge against the petitioner is liable to be quashed. Accordingly, the charge against the petitioner in C.C.No.252 of 2017 is quashed.

11.In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

14.08.2023

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

To

1.The Judicial Magistrate No.I, Thoothukudi District.

2.The Inspector of Police,
South Police Station,
Thoothukudi,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P. DHANABAL,J.

Mrn

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