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Crl.O.P.No.2686 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.2686 of 2022

Balasubramanian @ Bala

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Ariyankuppam Police Station,
Puducherry.
(Crime No.95 of 2016)

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in connection with C.C.No.1091 of 2019 on the file of the Judicial Magistrate No.III, Puducherry and quash the same.

For Petitioner : Mr. T.Sai Krishnan

For Respondent : Mr.K.S.Mohandass,
Public Prosecutor, (Puducherry)
Assisted by M/s.N.Danalatchumy

ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in C.C.No.1091 of 2019 on the file of the Judicial Magistrate



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No.III, Puducherry, in which cognizance was taken for the offence punishable under Section 75 of Juvenile Justice Act 2015 r/w 34 of Indian Penal Code.

2. The case of the prosecution is that the petitioner was working as House-father in the Observation Home Special School, Ariyankuppam, Puducherry on contract basis. Wherein, one Sarathraj, the Juvenile in conflict with the law, was reported to have escaped from the observation home, and a missing complaint was registered in the respondent's police station. Later, the said Sarathraj was rescued and restored in the observation Home. Subsequently, in the counseling session, the said Juvenile in conflict with law had made a statement that while he was attempting to escape through the window bar in the observation home, one Rajavelu, A1 working as Multi – tasking Staff- Security, aided him by opening the door of the observation home and allowed him to escape from the home for the gain of money. However, the said Juvenile in conflict with law was rescued by the police and kept in observation home. While so, the said Rajavelu requested him not to disclose to others that he helped in escaping from the home and that if other come to know of it, then he will lose the job and that he will die



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if any such thing happens. Therefore, the said Rajavelu requested the Juvenile in conflict with the law to come through the window bars for him to videograph the scene in his cell phone so that he can have that vide for his safety and say that the juvenile escaped on his own. As such, the said Juvenile in conflict with the law attempted to come through the said window, however, he could not come through the same. It is pertinent to state here that during the above said occurrence, the petitioner herein was on duty and present at the occurrence site and as such the same was captured in the CCTV.

3. The learned counsel for the petitioner submitted that based on the said statement of the Juvenile in conflict with law, the principal Magistrate / Judicial Magistrate No.I, Puducherry by way of proceedings dated 29.07.2016, directed the respondent police to file FIR against all the staffs of the observation home as though all the staff abused and assaulted the juvenile in conflict with law by forcing / threatening him to come through the window bars to create a scene. As per the directions of the Judicial Magistrate-I, Puducherry an FIR was registered in Crime No.95 of 2016, dated 30.07.2016 for the alleged offences under Section 75 of the Juvenile



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Justice Act, 2015 r/w 34 of IPC. He further submitted that now a final report has been filed for the alleged occurrence and the charge sheet are clear abusive process of law and without any application of mind. The petitioner has no role in the whole occurrence of the event, and the same is very evident from the very statement of the juvenile in conflict with law dated 25.07.2016. Only in order to implicate the petitioner in the case, the respondent police had subsequently obtained statements from the JCLs and falsely implicated the petitioner in the impugned charge sheet. Hence, he prayed to quash the C.C.No.1091 of 2019 on the file of the Judicial Magistrate No.III, Puducherry.

4. The learned Public Prosecutor (Puducherry) appearing for the respondent submitted that during the course of investigation, on 31.07.2016, the accused persons A1 to A3 were arrested and remanded to judicial custody. The investigation was completed and laid charge sheet before the learned Judicial Magistrate No.III, Puducherry and the same was taken on file in C.C.No.1019 of 2019, and charges have been framed against them. In the meanwhile, the accused person /A1/Rajavelu died, hence he raised strong objection to quash the proceedings against this petitioner.



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5. Considering the submission made by both sides' counsels and also the fact that previously no case was made out against this petitioner. As per the complaint, his name was not mentioned by the Juvenile, and subsequently, he was implicated based upon CCTV footage. Admittedly, petitioner is a temporary staff has no right to control Juvenile, only the A1, who is permanent staff. At the most A1 was assisted Juvenile to escape. Now A1 died. I do not find any material evidence against the petitioner to prosecute the petitioner under Section 75 of Juvenile Justice Act, 2015. This Court is inclined to quash the proceedings in C.C.No.1091 of 2019 on the file of the Judicial Magistrate No.III, Puducherry.

6. Accordingly, this Criminal Original Petition is allowed.

09.01.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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