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CrI.O.P.No.16942 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.16942 of 2024
& CrI.M.P.Nos.10190 & 10189 of 2024

R.Sivasubramaniyan, aged about 34 years
S/o. K.Ravichandran
No.88, Maapadugai Road,
Mayiladuthurai District – Pin Code 609 003. ... Petitioner/Accused
/versus/

1.The State
Rep by the Sub-Inspector of Police
Virudhachalam Police Station
Cuddalore.
(Crime No.54 of 2016). ... 1st Petitioner/Complainant

2. M.Zakir Hussain
S/o. Mohammed Hanifa
No.7, Anna Veedhi, Pudupettai,
Virudhachalam, Cuddalore. ... 2nd Respondent/defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the case in C.C. No.98 of 2015 now pending before the Learned Judicial Magistrate No.1 Virudhachalam and quash the same

For Petitioner : Mr.R.Srinivas, Senior Counsel,
for Ms.Mythili Srinivas

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)

ORDER



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The petitioner herein is shown as an accused in C.C.No.98 of 2016 which is pending on the file of Judicial Magistrate-I, Viruthachalam.

2. The case is in respect of theft committed in a lodge by the inmate who booked room on 30.01.2016 in the name of Sivasubramaniyan S/o.Ravichandran, Mayiladuthurai and left the lodge on 31.01.2016, had taken away the LG LED 21 inch TV kept in the room. According to the police, on the complaint given by Zakir Hussain, the owner of the lodge, case was registered against Sivasubramaniyan S/o.Ravichandran, Myiladuthurai in Crime No.54 of 2016 for the offence under Section 380 of I.P.C and taken up for investigation. Further, the Investigating Officer arrested Sivasubramaniyan S/o.Ravichandran, on 31.01.2016 and remanded him to the judicial custody. The confession statement of the said Sivasubramaniyan S/o.Ravichandran/accused also been recorded while recovering the LG 21' LED TV. The personal body mark of the person who was arrested by the Investigating Officer also been recorded in the arrest memo prepared on 31.01.2016.

3. While the fact being so, the petitioner herein when applied for



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passport, it was informed that case against him is pending before the Judicial Magistrate-I, Virudhachalam. Being shocked, the petitioner has made an enquiry and found that the respondent police has shown arrest of a person by name, Sivasubramaniyan S/o.Ravichandran and remanded the person in judicial custody. On further probing, the petitioner had come to know that the police has used his name, father name and other details and remanded an impersonator to the judicial custody.

4. While the petitioner has obtained employment in Malaysia and left India on 31.12.2015 and returned to India back on 12.10.2016 and joined M.B.A course and obtained M.B.A degree from R.D.B Institute of Management, Papanasam, the information revealed by the passport office regarding pendency of case in Crime No.54 of 2016 in his name, has caused grave mental agony. His probe into the matter has disclosed the fact that the crime being committed by somebody else but the accused has given his name in the lodge while booking the room and also to the police when arrested. The police has not properly investigated about the identity of that person and mechanically remanded him showing his name as Sivasubramaniyan S/o.Ravichandran.

5. For the above said reasons, the petitioner has sought for quash of



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C.C.No.98 of 2016 pending in his name.

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6. This Court, after hearing the Learned Senior Counsel Mr.R.Srinivas, was shocked to know that an innocent person is now being put to turmoil due to the fraudulent act of an impostor and improper investigation of the Investigating Officer. The verification of the personal mark of the person who was remanded by the Investigating Officer and the confession statement given by that impostor clearly establish the fact that the petitioner before this Court is not the person who has checked in the lodge of the complainant on 30.01.2016 and he was not the person who has stolen the LG LED TV from the lodge. He was not the person who was arrested by the Investigating Officer and remanded to Judicial Custody.

7. During the hearing, the petitioner and Investigating Officer was present. The Investigating Officer categorically stated that the petitioner herein is not the person whom he arrested and recovered the stolen TV. Therefore, the Court directed the Investigating Officer to find out the person whom he has arrested and remanded to Judicial Custody. The Investigating Officer to secure the person whom he arrested and remanded and to ascertain his real identify. After sufficient time granted, the Investigating Officer has found out that the



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person whom he arrested was one Venkatesh Kumar S/o.Ravishankar,

Dharmapuri District and he is in the habit of misusing the driving license and documents of others and impersonate to commit crime. Similar case been registered in Katoor Police Station, Coimbatore. Further, investigation has led to the fact that the said Venkatesh Kumar had checked in the lodge at Bangalore on 12.06.2024 in the name Narshimaraj. When he got sick, taken to the Victoria Hospital Bangalore, where he died on 26.06.2024 due to his illness. In this connection, case in Crime No.57 of 2024 been registered under Section 174 of Cr.P.C by Batraynapura Police Station, Bangalore on 26.06.2024.

8. Thus, by faulty investigation, the petitioner herein been shown as an accused in a theft case and after realising that the petitioner before this Court is not the culprit but one Venkatesh Kumar S/o. Ravishankar, Dharmapuri District, is the real culprit and he died on 26.06.2024, the Investigating Officer has filed an affidavit before the concern Judicial Magistrate narrating the facts and sought to drop action. A copy of the said affidavit dated 27.08.2024 is furnished to this Court.

9. In the light of the above fact, this Court place on record that the petitioner herein, Sivasubramaniyan S/o.Ravichandran, aged 34 years, resident



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of No.88, Maapadugai Road, Mayiladuthurai is not the accused in the Crime No.54 of 2016 on the file of Virudhachalam Police Station, Cuddalore. The person who was involved in the alleged crime is one Venkatesh Kumar S/o.Ravishankar, a resident of Dhamapuri District. Only from the said Venkatesh Kumar, the Investigating Officer has recovered the stolen property based on the confession statement given by said Venkatesh Kumar, who impersonated himself as Sivasubramaniyan. The petitioner herein had never been arrested or remanded to judicial custody.

10. The person who was remanded to Judicial custody in the name of Sivasubramaniyan in Crime No.54 of 2016 is in fact, Venkatesh Kumar S/o.Ravishankar. Therefore, for all purpose, the petitioner herein is not the accused in Crime No.54 of 2016. Hence, there is no impediment for issuing passport to the petitioner herein.

11. As a result, the petition filed to quash the C.C.No.98 of 2016 on the file of Judicial Magistrate-I, Virudhachalam is allowed. Due to the death of the real culprit Venkatesh Kumar S/o.Ravichandran, C.C.No.98 of 2016 is abated. In view of the affidavit filed by the Station House Officer, Virudhachalam Town Police, Cuddalore, the first respondent police is hereby



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directed to give No objection certificate for the passport renewal of the petitioner.

12. It is placed on record that only due to the sustained probe conducted by the Learned Counsel on record and the Learned Senior Counsel Mr.R.Srinivas to find out the truth, necessary facts came to light and helped this Court to assist the Court to arrive at a just decision for rendering justice to a innocent person who has been falsely implicated a case of theft.

13. With this observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

28.08.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

To:-

1. The Judicial Magistrate No.1 Virudhachalam.
2. The Sub-Inspector of Police, Virudhachalam Police Station, Cuddalore.
3. The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.

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