



Crl.O.P.No.16063 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:05.08.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.16063 of 2024

and

Crl.M.P.Nos.9781 & 9783 of 2024

Dinesh N.Surana

.. Petitioner

/versus/

1.Sub Inspector of Police,
R7, K.K.Nagar,
Chennai-78.

2.K.Kumar

.. Respondents

Criminal Original Petition has been filed under Section 528 of BNSS (Old Sec.482 of Cr.P.C), to call for records relating to C.C.No.1845 of 2023 pending on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner :Mr.S.Sivakumar

For R1 :Mr.K.M.D.Muhilan
Govt.Advocate (Crl.Side)

For R2 :Mr.V.R.Shanmugarajeswaran



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ORDER

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The complaint given by one Kumar against this petitioner

Dinesh N.Surana has been registered in Crime No.224 of 2022 for the offences under Sections 294(b) and 506(i) of IPC and the same was taken up for investigation by the first respondent police and on completion of investigation, final report has been filed before the XXIII Metropolitan Magistrate, Saidapet, Chennai for the alleged offences under Sections 294(b) and 506(i) of IPC.

2.The learned counsel appearing for the petitioner submitted that a bald allegation made against the petitioner as if he had caused notice demanding money and several unwanted letters demanding money besides threatening the staff of the complainant and consumers with dire consequences, if they trade with the complainant. However, there is no material to support the complaint and the four witnesses mentioned in the list of witnesses are all the staff of the defacto complainant.



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3.The learned counsel appearing for the petitioner submitted that due to business rivalry, the complaint has been given without any material to proceed against the petitioner. However, the Metropolitan Magistrate has taken cognizance of the offence without applying his mind.

4. The learned counsel appearing for the defacto complainant/2nd respondent submitted that fault of the Investigating Officer not including the documents collected during the course of investigation should not prejudice the complainant. Further, the defacto complainant had given a statement to the police in the course of investigation that the witnesses had been threatened and that cannot be ignored.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

6. The statement of the complainant recorded under Section



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161 of Cr.P.C., would clearly show that the notice alleged to have been sent by this accused/petitioner was not infact sent by the petitioner which was sent by one Isaki Pandian, who is an Advocate, on the instruction of the petitioner. The said Advocate has caused notice to Ganesan on behalf of one Muthusamy. The other letter communication alleged in the complaint has not seen in the light of the day. The statement of Kumar, the defacto complainant, is mainly on the presumption that the threatening calls and the notice are the handiwork of the accused, who has business rivalry with him. On suspicion and surmises, the person cannot be prosecuted except four interested witnesses who are all the employees of the defacto complainant. There is no other material to prosecute the petitioner herein for the offences under Sections 294(b) and 506(i) of IPC.

7. It is unfortunate that the police has not even verified the allegation of threatening phone calls emanated from the petitioner/accused. Without any foundational details about the phone number and time of call, the charge against the petitioner under Sections 294(b) and 506(i) of IPC cannot sustain.



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8. Therefore, this Court is of the view that without any material evidence to substantiate the ingredient required for the offences under Sections 294(b) and 506(i) of IPC or there is no need to be continued, this Criminal Original Petition to quash is allowed and the case in C.C.No.1845 of 2023 pending on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

05.08.2024

Index:yes/no

Neutral Citation:yes/no

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To:

- 1.The XXIII Metropolitan Magistrate, Saidapet, Chennai.
- 2.The Sub Inspector of Police, R7, K.K.Nagar, Chennai-78
- 3.The Public Prosecutor, High Court,Madras.

DR.G.JAYACHANDRAN,J.

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