



Crl.O.P.No.20739 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.20739 of 2024

and

Crl.M.P.No.11919 of 2024

Sirajudeen

... Petitioner

Vs.

1.State Rep.by
The Inspector of Police,
M-6, Manali Police Station,
Chennai.

2.M.Sravanan

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to call for the records pertaining to the case in C.C.No.8 of 2010 on the file of the Judicial Magistrate, Tiruvottiyur and quash the same.

For Petitioner : Mr.Charles Kamalesh M.Appaji

For R1 : Mr.S.Udayakumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to quash the criminal case pending on the file of the Judicial Magistrate, Tiruvottiyur in C.C.No.8 of 2010.



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2. The final report filed pursuant to the complaint registered on

15.06.2009 in Crime No.231 of 2009 which indicates that the petitioner herein on 15.06.2009 at about 16.00 hours, demanded Rs.1000/- per month from the defacto complainant as a protection money and claimed himself as a Journalist. When the defacto complainant refused to pay the money, it is alleged that the petitioner attacked the defacto complainant and caused simple hurt and hence final report filed for offence under Sections 392 & 394 IPC and the same has been taken on file by the Judicial Magistrate in C.C.No.8 of 2010. For the reason best known, for the past 10 years, the respondent police has not served summons to the petitioner herein and shown interest to commence the trial.

3. The present petition is filed to quash the complaint on the ground that the petitioner is affluent enough, earning sufficiently and running a Magazine in the name of Makkal Parvai and used to expose mysterious of several police officials which has incurred the wrath of the police, by filing several complaints against the petitioner herein through various police station. In fact in the year 2008, even without any case against him, the police has opened History Sheet against him. As far as the present complaint is concerned, when there is no delivery of money,



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the offence under Section 392 and 394 IPC will not get attracted and also submits that the medical certificate relied by the prosecution obtained after six months of the incident.

4. The learned counsel appearing for the petitioner also relied upon the judgment of the Hon'ble Supreme Court rendered in ***Dhananjay @ Dhananjay Kumar Singh Vs. State of Bihar*** and another reported in ***(2007)14 SCC 768*** and ***Mohammad Wajid & Anr Vs. State of Uttar Pradesh and ors*** reported in ***2023 LiveLaw (SC) 624***. To buttress his argument that the absence of ingredient to attract offence under Sections 392 & 394 IPC, a ground for quash and further, the inordinate delay in registering the FIR should also to be taken note of.

5. The learned Government Advocate (CrI.Side) appearing for the respondent police submits that the petitioner herein been found involved in extorting money under the guise of Journalist. When the defacto complainant refused to pay Rs.1,000/- per month as protection money, the petitioner has attacked him and caused hurt.

6. The perusal of the statements of the witnesses indicates that the petitioner has involved in commission of cognizable offence. The



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petitioner has not so far submitted himself before the trial Court which has caused inordinate delay in commencing of the trial.

7. The learned Government Advocate (CrI.Side) submits that the attempt to serve summons to the petitioner become futile, since the petitioner is not available in the known address.

8. This Court is of the view that though the final report been filed under Section 392 & 394 IPC, it is for the trial Court to consider the material placed before it and frame appropriate charge. Hence this Court is not expressing any opinion about the ingredients required for Section 392 and 394 IPC, which will be decided by the Court below while framing charge. The petitioner has not submitted himself for the trial before the Magistrate Court. He is supposed to appear before the Magistrate Court on the next hearing date and answer the charge. Since the specific allegation of demand of protection money putting the petitioner under threat by writing article in his magazine, surely the commission of cognizable offence, the Judicial Magistrate to apply his mind and take appropriate decision under provision of law under which the petition has been filed.



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WEB COPY 9. With this observation, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

28.08.2024

Neutral Citation : Yes/No
rpl

To

1.The Judicial Magistrate, Tiruvottiyur

2.The Inspector of Police,
M-6, Manali Police Station,
Chennai.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN,J.

rpl



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