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Crl.O.P.No.20685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.20685 of 2023

and

Crl.M.P.No.14122 of 2023

Prakash Kumar

... Petitioner

Vs.

1. The State Represented by
The Sub-Inspector of Police,
Muthialpet Police Station,
Muthialpet,
Puducherry – 605 008.

2. Ashok kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings relating to C.C.No.222 of 2020 pending on the file of the learned Judicial Magistrate No.II, Puducherry.

For Petitioner : M/s.R.Renuka Devi

For R1 : Mr.M.V.Ramachandramurthy
Public Prosecutor, (Puducherry)
Assisted by Mr.A.alexander
Government Advocate

For R2 : No appearance



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in C.C.No.222 of 2020 pending on the file of the learned Judicial Magistrate No.II, Puducherry.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Public Prosecutor (Puducherry) appearing for the official respondent and perused the materials available on record. Though notice was served on the second respondent, none appeared on behalf of the second respondent.

3. The learned counsel for the petitioner submitted that F.I.R was registered as against the accused persons in Crime No.13 of 2019 on the file of the respondent police. After completion of investigation, final report was filed before learned Judicial Magistrate No.II, Puducherry and the same was taken on file in C.C.No.222 of 2020. He further submitted that petitioner's name was not shown in the F.I.R. The



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petitioner was not found in the occurrence place at the time of occurrence. The petitioner's name was found neither in the complaint given by the defacto complainant nor in the averments made in the F.I.R, Due to previous enmity, the petitioner was implicated in the case. The witnesses were also examined on the same day and they have stated that due to fear, they did not mention the petitioner's name in the F.I.R. The defacto complainant is none other than sitting M.L.A, who is afraid of the petitioner, is unbelievable. Further, the learned Magistrate failed to consider the original complaint given by the defacto complainant, in which, the petitioner's name was not found place. Hence, he prayed to quash the proceedings in C.C.No.222 of 2020 pending on the file of the learned Judicial Magistrate No.II, Puducherry.

4. Learned Public Prosecutor (Puducherry) appearing for the first respondent submitted that the petitioner has filed this petition to quash the proceedings in C.C.No.222 of 2020 and not to quash the F.I.R in Crime No.13 of 2019. The petitioner is very well aware that the charge sheet has been filed and all the witnesses have spoken about the



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involvement of the petitioner in the said occurrence. L.W.1, who is the defacto complainant, has clearly spoken about the specific overt act as against the petitioner. L.Ws.3 to 5, who are the eye witnesses have also spoken about the specific overt act as against the petitioner. The grounds raised by the petitioner are matter for trial. Hence, he prayed for dismissal of the above petition.

5. Though initially case was registered as against accused persons, in which the petitioner was not shown as accused, during investigation, L.W.1, who is the defacto complainant, has given statement before the Investigating Officer under Section 161(3) Cr.P.C., that though A1 to A5 were present at the time and place of occurrence, due to fear, he did not mention the petitioner's name in the F.I.R. However, the petitioner along with other accused has committed the alleged offence. L.W.3 who is said to have been the eye witness, has also spoken about the overt act as against the petitioner. L.Ws.4,5&6 have also spoken about the involvement of the petitioner in the offence. The other witnesses have also mentioned the name of the petitioner and involvement of the



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petitioner in the alleged offence. All the witnesses have stated about the role of the petitioner in this case. The F.I.R is not an encyclopedia. Based on the F.I.R, the Investigating Officer registered the case and conducted investigation. All the witnesses have spoken about the involvement of the accused in the alleged offence.

6. All the witnesses have during investigation, spoken about the involvement of the petitioner in the crime and the specific overt act as against the petitioner, and though the petitioner's name was not mentioned in the F.I.R, he was arrayed as A5 in C.C.No.222 of 2020. The petitioner's counsel submitted that due to enmity, the petitioner was falsely implicated. Further, the defence taken by the petitioner is not for quashing the F.I.R. The grounds raised by the petitioner are matter for trial. Since the charge sheet reveals the involvement of the accused, including the petitioner and specific overt act as against the petitioner, based on the statement of witnesses, the respondent police filed the final report before the learned Magistrate. The learned Magistrate has also taken cognizance of the complaint in C.C.No.222 of 2020. Therefore, it



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is for the petitioner to work out his remedy before the concerned Magistrate in the manner known to law.

7. In view of the above, this Court finds that there is no ground made out to quash the proceedings relating to C.C.No.222 of 2020 pending on the file of the learned Judicial Magistrate No.II, Puducherry and there is no merit in the original petition. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

8. The petitioner is at liberty to take all his defence before the learned Magistrate where C.C.No.222 of 2020 is pending.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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