



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.OP No. 29075 of 2022

1 ZAKKEER HUSSAIN

...Petitioner

Vs.

1 THE SUB INSPECTOR OF POLICE
NO.889/2020.

2 THIYAGARAJAN

...Respondents

PRAYER : This petition has been filed under Section 482 of Cr.P.C , to
call for the records in CC.No.27/2021 pending on the Judicial Magistrate
Gudalur and Quash the same as illegal and without jurisdiction.

For Petitioner : Mr. I.Abdul Basith

For R1 : S.Vinoth Kumar

Government Advocate (Crl.side)

For R2 : Notice served.



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ORDER

The petitioners herein filed this petition to call for the records in CC.No.27/2021 pending on the Judicial Magistrate Gudalur and Quash the same as illegal and without jurisdiction.

2. The case of the prosecution is that on 02.07.2020, the petitioner spread rumor through Facebook stating that person belonging to RSS organization who were working in the friends of police in the name of sevabarati were involved themselves in Sattankulam Custodial Death. Based on the above information, the first respondent herein initiated criminal prosecution and registered an FIR in crime No. 889 of 2020 dated 03.07.2020 for the offense under Section 505(1) (b) IPC. After investigation the respondent police filed a final report and the same was taken cognizance in C.C No. 27 of 2021 on the file of the Judicial Magistrate, Gudalur. Hence, the petitioner filed this petition to quash the said final report.

3. The learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged by the defacto complainant. He further stated that as per Section 196 before taking cognizance prior sanction is mandated without which Trial Court erroneously taken the cognizance on file. Besides, as per the final report there is no material placed



against the petitioner by the prosecution that the petitioner was posted the alleged post in the social media with malafide intention.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side.)

5. On perusal of the final report, the prosecution relied the evidence of four persons as eye witness but as per the complaint, he forwarded the message in his facebook account all the three witnesses claimed as eye witness but there is no electronic proof on the side of the prosecution that the such message was posted by the petitioner in any social media, nor there is any evidence that he did with malafide intention. Therefore, there is no basic material against the petitioner to attract the above offence. Hence, CC.No.27/2021 pending on the Judicial Magistrate Gudalur, is hereby quashed.

6. In the result, this petition is allowed. No Costs. Consequentially, connected miscellaneous petition is closed.

07.03.2024

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To

1. The Public Prosecutor,
High Court, Madras.

2. The Judicial Magistrate Gudalur.



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T.V.THAMILSELVI, J.

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CRL.OP No. 29075 of 2022
and CrI.MP No. 17802 of 2022

07.03.2024