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CRL.O.P.(MD)NO.5397 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

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THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CRL.O.P.(MD)No.5397 of 2021

Sajin

... Petitioner / Accused No.3

Vs.

1. The Sub Inspector of Police,
Kotticode police station,
Kanyakumari District.

2. Jeyarajan,
Head Constable No.1937,
Kotticode police station,
Kanyakumari District.

... Respondent / Complainant

Prayer: Criminal original petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.128 of 2020 on the file of the Judicial Magistrate Court No.I, Padmanabhapuram and quash the same.

For Petitioner : Mr.M.Punitha Deva Kumar

For R-1 & R-2 : Mr.K.Sanjai Gandhi,
Government Advocate(Crl. Side).

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**ORDER**

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Seeking to quash the final report in C.C.No.128 of 2020 on the file of the Judicial Magistrate No.I, Padmanabhapuram, the present criminal original petition is filed.

2. The petitioner is arrayed as third accused in C.C.No.128 of 2020. The case of the prosecution is that on 27.09.2019, when Jeyarajan and Kanagaraj, Head Constables of Police of Kotticode police station were on routine rounds near Manalikkarai, Kanyakumari District, the present accused along with two others came in a two wheeler bearing registration No.TN75-AE-9954 and abused both the Head Constables and also threatened them with dire consequences. Based on the complaint given by Jeyarajan, Head Constable of Police, FIR in Crime No.106/2019 was registered by the Sub Inspector of Police, Kotticode police station. The police after conducting investigation, filed a final report against the present petitioner and two others for the offences punishable under Sections 294(b), 353 and 506(1) IPC.

3. The learned counsel appearing for the petitioner would contend that the present petitioner is working in Indian Army and he had come down to his village for vacation and on 27.09.2019, he saw the



defacto complainant beating two youngsters in a public place and when he confronted the police in this regard, they had foisted a false case against him as if the petitioner prevented them from discharging their official duty.

4. Per contra, Mr.Sanjai Gandhi, learned Government Advocate(Crl. Side) would contend that the present accused along with two others after consuming alcohol came in a two wheeler bearing registration No. TN75-AE-9954 and abused the police officials in filthy language and also prevented them from discharging their duties. According to him, the police after conducting proper investigation filed the final report and there is no ground to quash the same.

5. In the final report, nowhere it is stated that the present petitioner and two others came in a two wheeler after consuming Alcohol and abused the police officials. Medical examination was also not conducted in this regard. However, in the statement under Section 161(3) Cr.P.C., Jeyarajan Head Constable of Police had stated that the present petitioner and two others after consuming Alcohol came in a two wheeler bearing registration No.TN75-AE-9954 and stopped the vehicle in front of them and abused them in filthy language. It is also contended that they were threatened with dire consequences. The defacto complainant is not



an illiterate and is a police official. He can narrate cogently as to what had happened on the date of occurrence. His version in the complaint has been exaggerated in 161(3)Cr.P.C. Which does not augur well for his status as a police. Moreover there is nothing on record to show that both the police officials were put under imminent danger on account of the threat made by the present petitioner.

6. In the facts and circumstances, the final report in C.C.No.128 of 2020 on the file of the Judicial Magistrate No.I, Padmanabhapuram is quashed. This criminal original petition is allowed.

08.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

PMU

To:

1. The Judicial Magistrate No.I,
Padmanabhapuram.
2. The Sub Inspector of Police,
Kotticode police station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R. HEMALATHA,J.

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