



Crl.O.P(MD).No.15921 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.15921 of 2020

Mohammad Hussain

... Petitioner/A6

Vs.

1.State Rep. by
The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti, Tuticorin District.
(Crime No.3 of 2020)

2.Chokkalingam

... Respondents

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the Charge Sheet in C.C.No.159 of 2020 dated 09.07.2020 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.K.Althaf Sheriff for
M/s Ajmal Associates

For Respondent : Mr.R.M.Anbunithi
Addl. Public Prosecutor (for R1)
Mr.Aayira K.Selvakumar (for R2)



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ORDER

The petitioner has filed this petition seeking to quash the proceedings in C.C.No.159 of 2020 on the file of the Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

2. The case of the prosecution is that the defacto complainant is a doctor. On 01.01.2020 at about 12.00 a.m, A1 to A4 came in a Ford Car bearing Reg.No.TN-14-E-1220 to the house of the defacto complainant and in the presence of the A3 and A4, A1 and A2 jumped inside the compound of the defacto complainant and thereby break opened the house and went to the bedroom and thereby break opened the self and had away 94 sovereigns of gold jewels and silver articles and thereby committed theft and escape from the scene of occurrence. Thereafter, A1 to A4 had handed over all the stolen articles to A5. A5 had introduced A6. The petitioner/A6 even after knowing that the above said articles were stolen, had got yet from A5. Hence, FIR has been registered against the accused under Sections 457, 380, 411 and 414 IPC. Thereafter, a charge sheet has been filed before the Judicial Magistrate No.II, Kovilpatti and the same has been taken on file as C.C.No.159 of 2020. To quash the said proceedings, the petitioner/A6 filed the present petition.



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3. The learned counsel appearing for the petitioner submitted that the petitioner is running a jewellery shop for several years in the name and style of Rahumath Jewellers at Tirunelveli Town with a genuine trust and confidence of the general public in the locality. On 27.02.2020 at about 08.00 p.m, during evening peak business hours, a team of 8 police had illegally trespassed into the petitioner's jewellery shop and had taken away near about 100 sovereigns of gold jewels (800 grams) and the said police officials restrained the petitioner and pull down and brutally assaulted the petitioner and pulling the petitioner out of his shop. He would further submit that the alleged occurrence was said to have taken place on 29.01.2019, however, the present FIR in Crime No.3 of 2020 was registered belatedly on 03.01.2020 after a period of 340 days from the date of occurrence with a *mala fide* intention to harass the petitioner and detained him from the work by lodging a false complaint against the innocent petitioner herein. He would further submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Hence, he prays for quashing the said proceedings.



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4. The learned Additional Public Prosecutor appearing for the first respondent would submit that based on the confession of the co-accused, the respondent police have recovered the stolen articles from the petitioner's jewellery shop, hence, the petitioner has been implicated in this case. Hence, the learned Additional Public Prosecutor has strongly opposed to quash the said proceedings.

5. The learned counsel appearing for the second respondent has also strongly opposed to quash the said proceedings in C.C.No.159 of 2020.

6. The offences with which the petitioner has been charged are under Sections 457, 380, 411, 414 IPC. It is seen that there are some averments against the petitioner in the complaint. Therefore, it is not possible for this Court to quash the proceedings as such.

7. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is given liberty to raise all his contentions, including the contentions raised in this Criminal Original Petition at the time of trial.



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8. In the said circumstances, the learned counsel appearing for the petitioner seeks to dispense with the personal appearance of the petitioner before the trial Court.

9. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial Court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial Court, at its wisdom, shall direct him for appearance on those days.

20.06.2024

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

skn

To

1. The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti, Tuticorin District.

2. The Judicial Magistrate No.II, Kovilpatti.



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A.A.NAKKIRAN, J.

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3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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