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Crl.O.P.No.10671 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.10671 of 2014

A.Safiullah

... Petitioner

Versus

Sundararajan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 24.01.2014 in Crl.R.P.No.58 of 2012 on the file of the II Additional District Judge, Salem confirming the order in CC.No.125 of 2012 dated 26.10.2012 on the file of the Judicial Magistrate No.3, Salem.

For Petitioner : Mr.R.S.Mangala Kumar

For Respondent : Mr.R.Nalliyappan

ORDER

This petition has been filed seeking to quash the private complaint in C.C.No.125 of 2012 on the file of the learned Judicial Magistrate No.III, Salem as against the fourth respondent/petitioner.



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2. The petitioner is prosecuted in the private complaint for the offences punishable under Sections 120(B) & 211 of IPC for instituting a police case against the respondent in Cr.No.775 of 2012 on 16.09.2012 for the offences punishable under Sections 420 of IPC based on a complaint said to have been given by the defacto complainant namely one Gnanasekaran.

3. Brief background in filing the private complaint are as follows:

Based on a complaint given by one Gnanasekaran, the petitioner herein investigated the matter and laid a final report for the offences punishable under Section 420 of IPC which has been taken cognizance by the learned Judicial Magistrate No.III, Salem in C.C.No.1 of 2013 and the same has resulted in acquittal of the respondent herein. It is the contention of the respondent herein in the private complaint that the above case has been falsely implicated by the investigating officer/petitioner herein and the same has been taken cognizance by the Trial Court. On revision, the Revision Court has also confirmed the cognizance taken by the learned Judicial Magistrate No.III, Salem. Challenging the same, the present petition has been filed for quashment of the entire proceedings of the private complaint.

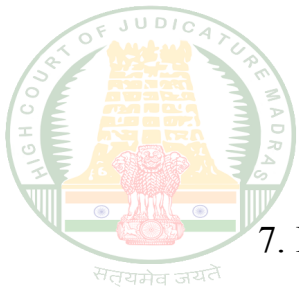


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4. The learned counsel for the petitioner submitted that no sanction is obtained to prosecute the petitioner and the petitioner was just an investigating officer who has investigated the case based on the records produced by the defacto complainant in the C.C.No.1 of 2013 and the statements of the witnesses have been recorded as per their own version. Therefore, merely, because the witness has given different versions in the statements, that cannot be a ground to hold that the petitioner has conspired with the defacto complainant and he cannot be prosecuted under Section 211 of IPC.

5. Whereas, the learned counsel for the respondent submitted that the Trial Court on perusal of the averments in the complaint has rightly taken cognizance under offences punishable under Sections 120(B) and 211 of IPC and the Revisional Court on revision has also confirmed the same. Thus, seeks for dismissal of this petition.

6. Heard both sides and perused the materials placed on record.



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7. It is not disputed that the petitioner was the investigating officer in a final report filed in C.C.No.1 of 2013 for the alleged offences punishable under Section 420 of IPC. The above case came to be instituted by one Gnanasekaran as against the respondent herein. The said case has resulted in acquittal vide order dated 20.12.2024. The main grievance of the respondent in the private complaint is that despite the documents with regard to particular period of business and the statements of the witnesses for different dates have been recorded and he has been falsely prosecuted. It is relevant to note that though the defacto complainant in the earlier case has stated that the business transaction between the respondent and the defacto complainant was only from 29.12.2010 to 11.03.2011. During investigation in the statements under Section 161 of Cr.P.C given by the witnesses, it is stated before the investigating officer that the transaction between the defacto complainant and the respondent were of the period from 08.03.2011 to 28.02.2012. Therefore, once the witnesses have given different statements in their 161 statements during the investigation, the investigation officer cannot be fastened with any liability. He has to record the statement as it is. Therefore, merely different statements have been given by the witnesses during the investigation, the investigating officer cannot be prosecuted for the offences



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punishable under Sections 120(B) & 211 of IPC.

WEB COPY 8. Merely, because, there is a difference in complaint and 161 statements, it cannot be stated that there was no just or lawful to proceed further. FIR is not an encyclopedia, minutes details may not be contain in FIR; facts can only be unraveled during the investigation, therefore, any facts which unraveled during the statements which is recorded later may vary with the FIR and that may not be a ground to prosecute the Investigating Officer for the offences punishable under Sections 120(B) & 211 of IPC. Similarly, absolutely, there is no materials to show that the investigating officer conspired with the defacto complainant in the earlier case to file a case against the respondent herein. In fact, the earlier case has resulted in filing of the final report based on various materials. Such view of the matter, prosecuting the Investigating Officer for the offences punishable under Sections 120(B) & 211 of IPC in view of this Court is nothing but abuse of process of law. Accordingly, the complaint taken on file as against the petitioner/fourth accused herein alone in C.C.No.125 of 2012 on the file of the learned Judicial Magistrate No.III, Salem is quashed. Since the complaint itself is now quashed, the revision order passed by the Revision Court confirming the cognizance taken over the complaint will have no effect.



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N.SATHISH KUMAR, J.

9. Accordingly, this petition stands allowed.

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Index : Yes

Internet : Yes

To

1. The II Additional District Judge, Salem

2. The Judicial Magistrate No.3, Salem.

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