



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 21.08.2023

Pronouncing orders on : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18847 of 2023
and Crl.M.P.No.12619 of 2023

Mr.N.Aswathaman

.. Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Minjur Police Station,
Thiruvallur District.

2.Jayaprakash

..Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.373 of 2023 pending on the file of the Inspector of Police, Minjur Police Station and quash the same.

For Petitioner

: Mr.R.Sankarasunbbu

For Respondents

: Mr.A.Damodaran
Additional Public Prosecutor for R1

Mr.A.S.Mohamed Mansoor for R2



ORDER

WEB COPY This petition has been filed to quash the FIR pending on the file of the 1st respondent in Crime No.373 of 2023.

2. When the matter came up for admission on 16.08.2023, this Court passed the following order:

This Criminal Original Petition has been filed on the ground that the de facto complainant has come up with a specific stand that he has not lodged any complaint and that he is not even aware about the petitioner, who has been arrayed as A1 and it is further deposed in the affidavit that no one kidnapped the de facto complainant or committed any robbery against him.

2. The de facto complainant viz., Jayaprakash was present before this Court and he reiterated the stand taken in the affidavit filed before this Court.

3. Learned Additional Public Prosecutor seeks for some time to take instructions in this case.

Post this case under the same caption on 21.08.2023 at 02.15



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p.m. On that day, the de facto complainant shall be present before this Court and this Court will once again enquire the de facto complainant and take a decision. In the mean time, learned Additional Public Prosecutor shall take instructions.

3. When the matter came up for hearing today, the learned Additional Public Prosecutor submitted the CD file. The learned Additional Public Prosecutor also opposed the quashing of the FIR on the ground of compromise between the parties and to substantiate the same, the learned Additional Public Prosecutor placed reliance upon the judgment of the Apex Court in ***Ramgopal and Another vs. State of Madhya Pradesh*** reported in ***2021 SCC online SC 834***.

4. Heard Mr.R.Sankarasubbu, learned counsel appearing on behalf of the petitioner, Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the 1st respondent and Mr.A.S.Mohamed Mansoor, learned counsel appearing on behalf of the 2nd respondent.

5. The learned counsel for the petitioner submitted that the petitioner has been falsely roped in this case. It was contended that the petitioner is a practicing



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Advocate and he was defending some of the accused persons and it was not to the liking of the police and hence, a false case has been fabricated against the petitioner. The learned counsel further submitted that even from the remand order dated 05.08.2023, it can be seen that the Court below was convinced that there was a *prima facie* case against the petitioner only for offense under Section 387 and 364A of IPC. The learned counsel further submitted that the petitioner was holding a Gun license issued by a competent authority and therefore, the alleged offence under Arms Act cannot be put against the petitioner. The learned counsel submitted that the 2nd respondent has already filed an affidavit before this Court and he has informed this Court that he never gave a complaint against the petitioner and in view of the same, the learned counsel sought for the quashment of the FIR.

6.Per contra, learned Additional Public Prosecutor vehemently opposed the plea taken by the petitioner as if the matter has been compromised and it was contended that the facts of the present case are very serious and the FIR cannot be quashed on the ground of compromise.

7.The case of the prosecution is that the 2nd respondent is doing business in



civil construction and transport. He had also undertaken a contract with IOCL. On 06.02.2023 at about 11 a.m., when the 2nd respondent was inspecting the project in the construction site at Minjur, the accused persons came in a car and three two-wheelers and threatened the 2nd respondent to pay money by way of extortion. They further demanded that the 2nd respondent must keep regularly paying them if he wants to peacefully run the project. The 2nd respondent was also threatened by showing a pistol. In view of the same, the 2nd respondent had given the complaint before the 1st respondent to take action against the accused persons and based on this complaint, the FIR came to be registered in Crime No.373 of 2023 against six named accused persons and others for offense under Sections 147, 148, 364A, 387, 342, 392, 506(ii) of IPC and Section 25(1)(a) of the Arms Act, 1959.

8.This quash petition has been filed mainly on the ground that there is a compromise between the parties. The 2nd respondent informed this Court that he did not give any complaint and that the signature was taken from him by force and that he does not even know to write tamil and his second language was always hindi. He reiterated that he is not interested in prosecuting this case and wanted this Court to quash the FIR pending against the accused persons.



WEB COPY 9. This Court carefully went through the materials placed. On carefully going through the same, this Court found that the accused persons including the petitioner had infact gone into the project site and the CCTV footage establishes the same. Likewise, the 2nd respondent coming into police station to give a complaint and leaving the police station, has also been captured in the CCTV footage. The allegations that have been made in the complaint are really serious which requires investigation. It is not known as to why all of a sudden the 2nd respondent has turned turtle and wants to withdraw the case. The learned counsel for the petitioner projected a case as if the petitioner was appearing for some accused persons and therefore, a false case has been fabricated against the petitioner who is an Advocate. The pistol was found to be in possession of the petitioner and the petitioner is justifying the possession of the pistol based on the license and curiously this license has been issued by the State of Nagaland. The petitioner who is a permanent resident of Chennai has managed to get a gun license at Nagaland. These are matters which tells the Court that this is not a normal case as was sought to be projected by the learned counsel for the petitioner.

10. The Apex Court has repeatedly held that while exercising the power



under Section 482 of the Court, this Court must ensure that the case does not have a serious impact on the society. The Court must also consider the antecedents and the conduct of the accused. Where the offenses are grave or serious and which involves moral turpitude or will have a harmful effect on the social and moral fabric of the society, such type of offenses cannot be quashed on the ground of compromise. The reasons as to why the 2nd respondent all of a sudden is wriggling out of the case, throws a doubt in the mind of the Court, considering the background of the accused persons. This is not a fit case, where the FIR can be quashed on the ground of compromise. The investigation has to progress and ultimately, the report has to be filed by the Investigation Officer.

11. In the light of the above discussion, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

.08.2023

Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order
SSR



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N.ANAND VENKATESH, J

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To

- 1.The Inspector of Police,
Minjur Police Station,
Thiruvallur District.
- 2.The Public Prosecutor,
High Court, Madras.

Pre-Delivery Order in
CrI.O.P.No.18847 of 2023
and CrI.M.P.No.12619 of 2023

23.08.2023