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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21/03/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD) No.2071 of 2023

and

Crl.MP (MD) No.1812 and 1813 of 2023

1.J.Sadam Hussein
2.B.Shahir
3.S.Sheik Mohammed
4.A.Bahrudin

: Petitioners/A1 to A4

Vs.

1.The Deputy Superintendent of Police,
Panagudi,
Tirunelveli District.

2.The Inspector of Police,
Panangudi Police Station,
Tirunelveli District.
(Crime No.95 of 2013)

: R1 and R2/Complainants

3.Rajan

: R3/De-facto Complainant

Prayer:- Criminal Original Petition is filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the final report in SC No.106 of 2018 pending on the file of the II Additional District and Sessions Judge, (PCR), Tirunelveli and quash the same as illegal.

For Petitioners : Mr.C.M.Arumugam

For R1 and R2 : Mr.R.Sivakumar
Government Advocate
(Criminal side)

**O R D E R**

This criminal original petition has been filed seeking quashment of the final report in SC No.106 of 2018 pending on the file of the II Additional District and Sessions Judge, (PCR), Tirunelveli.

2.The facts in brief:-

The de-facto complainant gave a statement before the Recording Officer that enmity exists between his family and Jeyaraj, Vetrivel over a land. Through telephone, they used to threaten stating that they will kill and cause assault. On 03/04/2013, a call came from a phone asking him to deliver drinking water can to Vidiyal Home. He hired a van and carried 10 cans of water. At about 12.45 pm, three persons were standing in the western gate. They were covering their faces with cloths. One of the accused instructed the other accused to cut and remove the hands, and also caused assault with aruval. He sustained injury on the right forehead. When the de-facto complainant raised alarm, he was also assaulted and chased away. Two persons caught hold him behind back and other persons amputated his left hand wrist region. Another person caused assault in the forehead. They also took away the amputated portion of the hand in a plastic cover bag and fled away from that



place. He was taken to the hospital, where his statement was recorded. After completing the investigation process, final report was filed before the Judicial Magistrate, Valliyur, who took up cognizance and committed the case for trial to the Sessions Court.

3.Now seeking quashment of the above said case, this petition has been filed by all the four accused on the ground that proper investigation was not undertaken and during the course of investigation, it was stated by the de-facto complainant that he is having some dispute with one Jeyaraj and Vetrivel and because of the above said motive only, the alleged assault said to have been taken place. But they have been deleted from the final report. No weapon has been recovered, so also the amputated wrist portion. None of the witnesses have been examined by the Investigating Officer spoken about the involvement of the petitioners. It is a clear case of mistaken identity by the prosecution and the de-facto complainant.

4.Heard both sides.

5.The learned counsel appearing for the petitioners would stress upon the non-recovery of the weapon alleged to have been used for making the assault and



non-recovery of the amputated wrist portion of the de-facto complainant. Apart from that, he would submit that none of the witnesses have been examined during the course of the investigation spoken anything against the petitioners. For that purpose, he would take this court through the statement recorded under section 161 Cr.P.C by the Investigating Officer.

6.It is a case of gruesome and daring cut and removal of the wrist of the de-facto complainant. The de-facto complainant has given a clear and cogent statement with regard to the occurrence. Both of his hands have been caught hold by one of the assailants behind his back. Another person caused the above said gruesome attack and removed his wrist portion. Not satisfied with the removal, they also caused repeated assault with aruval. They were also taken away the amputated wrist portion in a plastic cover along with them. At the time of the above said occurrence, they said to have covered their faces with cloths. How the identification was made is a matter for trial. Simply because, the de-facto complainant has given a statement at the initial stage that he was having dispute with the above said two persons namely Jeyaraj and Vetrivel, the petitioners cannot take advantage of that.



7. Reading of the CD file shows that the petitioners alleged to have planned to cause the assault and remove the hands of the de-facto complainant, since he stated to have insulted and teased a girl belonging to their religion. One of the weapons namely wooden piece has been recovered at the instance of the accused.

8. In such of the circumstances, I am of the considered view that this is not a fittest case to exercise the discretionary power under section 482 Cr.P.C. The manner in which the above said assault said to have been committed is sufficient enough to dismiss the petition, since the matter has to be taken to its logical conclusion. So, I find no reason to quash the proceedings against the petitioners.

9. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

21/03/2023

Index:Yes/No
Internet:Yes/No

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To,

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- 1.The II Additional District and Sessions Judge,
(PCR), Tirunelveli.
- 2.The Deputy Superintendent of Police,
Panagudi,
Tirunelveli District.
- 3.The Inspector of Police,
Panangudi Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA, J

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