

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.872 of 2016

and

Crl.M.P.No.6707 of 2016

Devarajan ... Petitioner/Accused No.2

Vs.

State rep. by the
Inspector of Police,
B-5, Singanallur Police Station (L & O),
Coimbatore. ... Respondent/Complainant
Cr.No.661/2010

Criminal Revision filed under Sections 397 and 401
Cr.P.C. against the order passed by the learned Judicial
Magistrate-III, Coimbatore, in Cr.M.P.No.3097 of 2016 dated
10.06.2016 in C.C.No.390 of 2010 for discharge of the
petitioner in Cr.No.661 of 2010.

For Petitioner :: Mr.P.L.Narayanan,
for M/s.I.Abrar Md. Abdullah

For Respondent : Mr.K.Mathan
Govt. Advocate (Crl. Side)

O R D E R

This revision challenges the order of dismissal of the
petition for discharge moved by the petitioner in
Crl.M.P.No.3097 of 2016 in C.C.No.390 of 2010 (in Cr.No.661 of
2010) on the file of the learned Judicial Magistrate-III,
Coimbatore.

2.The prosecution case is that the de-facto complainant
and his friends had consumed liquor in front of a Tasmac shop
on 06.05.2010. An altercation took place between the de-facto
complainant and the four accused, as a result of which, the
petitioner/A2 attacked the de-facto complainant by using a
stick, resulting in simple injuries.

3.Petitioner has sought discharge in Crl.M.P.No.3097 of
2016 before the learned Judicial Magistrate-III, Coimbatore.
The same was dismissed on 10.06.2016, against which, the
present revision is filed.

4.Heard Mr.P.L.Narayanan, learned counsel for petitioner and Mr.K.Mathan, learned Government Advocate (Crl. Side).

5.It is admitted case, from the very reading of the FIR, that de-facto complainant and his friends had consumed liquor. There is no allegation against the accused of being under any such influence. 161(3) Cr.P.C. statement of the de-facto complainant informs that the same was recorded by the Investigating Officer at the hospital and that he had not preferred a complaint, since as a student, he feared that doing so, might affect his career. As against this, the case has been registered two days after the alleged occurrence on 08.05.2010 and the complaint is stated to have been given in writing at the police station.

6.It is apparent that the very de-facto complainant, in intoxicated state, at the time of occurrence has been hesitant in preferring a complaint. For whatsoever reason, on the accusation of the petitioner having beat the de-facto complainant with stick and he had suffered abrasion on the face as per Accident Register. As observed earlier, there is no accusation of the petitioner or any of the accused, already being drunk. It is for the prosecution to explain the delay of two days in preferring the complaint. This Court is of the view case of this nature should not be put to trial. Criminal Revision shall stand allowed and consequently, the order of the Court below is quashed. Benefit of this order shall also be applicable to the other accused. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

सत्यमेव जयते

Sub Asst. Registrar

DP

To

1.The Judicial Magistrate-III,
Coimbatore.

2.The Chief Judicial Magistrate,
Coimbatore.

3.The Public Prosecutor, High Court, Madras.

Crl.R.C.No.872 of 2016 and
Crl.M.P.No.6707 of 2016

mg (co)

ss (5/5/2017)

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