



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:13.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.O.P.(MD)No.15428 of 2017

and

CRL.M.P.(MD)10254 and 10255 of 2017

Kannan : Petitioner / Sole Accused/ Sole Accused

-Vs-

1. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai,
Sivagangai District. : 1st Respondent / Complaint / Complaint

2. Periyasamy : 2nd Respondent /De-facto complainant /
De-facto complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the petitioner in the final report in C.C.No.79 of 2017 on the file of the Judicial Magistrate Court No.1, Sivagangai, Sivagangai District in Crime No.32 of 2017 on the file of the respondent police and quash the same on illegal.

For Petitioner : Mr.R.Udhayakumar
For R1 : Mr.A.Ramar
Additional Public Prosecutor

O R D E R

The Criminal Petition Petition is filed to call for the final report in C.C.No.79 of 2017 on the file of the learned Judicial Magistrate Court No.1, Sivagangai, Sivagangai District.

2.Heard Mr.R.Udhayakumar, learned Counsel for the petitioner and Mr.A.Ramar, learned Additional Public Prosecutor, who takes notice for the first respondent.

3.It is not in dispute that based on the complaint lodged by the second respondent, a case was registered in Crime No.32 of 2017, as against the petitioner for the alleged offences punishable under Sections 341, 294(b), 323 and 506 (ii) IPC. Though the complaint was registered on 14.01.2017, for the occurrence which took place on 13.01.2017 at 12.30 hours, it is stated by the learned Counsel for the petitioner that the final report was filed on 14.01.2017, ie., on the same day of registration of the First Information Report. It is further



contended by the learned Counsel for the petitioner that in the charge sheet, the petitioner is charged for the offences punishable under Sections 387 and 506(ii) IPC., even though there is no allegations either in the complaint or in the First Information Report, attracting Section 387 IPC.

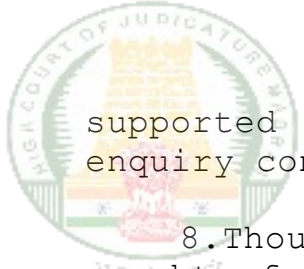
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4.The submissions of the learned Counsel for the petitioner is on the probability of the incident, which took place on 13.01.2017 and it was submitted by the learned Counsel for the petitioner that there was no injury even as per the complaint of the de-facto complainant. It is further submitted that the de-facto complainant never got admitted in any hospital. Despite the fact that the offences were about causing simple injury, it is contended that a charge was framed for the offence under Section 323 IPC.

5.The submission of the learned Counsel for the petitioner, has no merits, having regard to the scope, power and jurisdiction of this Court under Section 482 of Cr.P.C. The complaint clearly discloses the offences, for which the case was registered. It is true that, in the typed set submitted by the learned Counsel for the petitioner, in the charge sheet, Section 387 is mentioned instead of Sections 341, 294(b), 323 IPC. It is to be noted that in the charge sheet, dated 14.01.2017, offences under Sections 341, 294(b), 323 and 506(ii) IPC is mentioned. However, by typographical error instead 341, 294(b), 323 and 506(ii) IPC, Section 383 IPC has been mentioned at the bottom. This typographical error is obvious and that therefore the contention of the learned Counsel for the petitioner that it was just a typographical error can be accepted. The charge sheet framed now and filed also discloses the cognizable offences alleged to have been committed by the petitioner.

6.The truth or otherwise of the allegations in the complaint or in the charge sheet, cannot be decided in this petition, where the petition is to quash the charge sheet in relation to a crime. The next submission is also about the probability of incident, as the date of complaint and the date of filing of charge sheet is the very same day. There is no legal impediment for completing the investigation and to file a final report, on the same day of registration of complaint itself, when the whole incident is established immediately upon enquiring the witnesses to speak about the incident. It is quite possible for the respondent police for filing the charge sheet after holding enquiry on the same day of registration of the complaint.

7.Finally, the learned Counsel for the petitioner contended that there is no material to frame charges for the offences under Section 323 IPC. Lack of material cannot be a reason to alter the charge sheet at this stage. It is open to the petitioner to raise all his objections at the time of trial. Merely based on the probability, this Court cannot quash the charge sheet, which is



supported by the statements obtained from various witnesses and enquiry conducted by the Investigation Officer.

8. Though, the learned Counsel for the petitioner finally sought for indulgence of this Court to dispense with the appearance of the petitioner before the lower Court, it is open to the petitioner to file appropriate petition before the lower Court. As a result, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate Court No.1,
Sivagangai.
2. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Udhayakumar, Advocate sr.No.86658

CMR

VB/MR/KKR/SAR2/04/12/2017/3P/5C

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