



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2017

CORAM:

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Cr1.O.P. (MD)No.21660 of 2016

and

Cr1.M.P(MD)Nos.11136 and 11137 of 2016

Balachandran

: Petitioner/Accused No.1

Vs.

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

2.S.Mohan

: Respondents/Complainants

Prayer: This petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in PRC No.37 of 2015 on the file of the Judicial Magistrate Court, Theni District and quash the same.

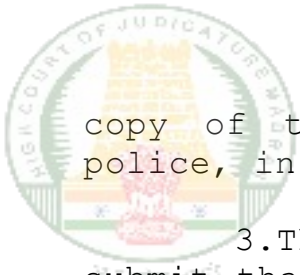
For Petitioner : Mr.P.Sivachandran

For 1st Respondent : Mr.A.P.Balasubramani
Government Advocate
(Criminal side)

O R D E R

This petition is filed to call for the records pertaining to the case in PRC No.37 of 2015 on the file of the Judicial Magistrate Court, Theni District and quash the same.

2.The learned counsel appearing for the petitioner would submit that the petitioner is nothing to do with the commission of the offence by somebody and further there is no iota of evidence to prove that the petitioner had conspired to attack and to do way the de-facto complainant and there is material available on record to rope the petitioner in this case and that the learned Judicial Magistrate, without considering the materials available on records, levelled the charges against the petitioner and hence, the case taken on file as PRC No.35 of 2015 is liable to be quashed. The learned counsel for the petitioner has produced a



copy of the final report and the statement recorded by the police, in support of his contention.

3.The learned Government Advocate (Criminal side) would submit that since, prima facie materials are available to presume that the petitioner would have committed the alleged offence, the 1st respondent police has rightly registered the FIR as against the accused persons and the case was also taken on file as PRC No.37 of 2015 and hence, the petition filed by the petitioner has to be dismissed.

4.This court has carefully heard the arguments made on either side and perused the materials available on record.

5.In this case, the petitioner has been arrayed as the first accused. On reading of the complaint and the statement recorded by the police, it is found that already motive was suggested and the petitioner/A1 along with the other accused had committed the offence. Hence, the charges framed under Section 120 (b) and other Sections of 294(b), 341, 323, 506(ii) and 307 IPC r/w 34 IPC were clearly made out.

6.Further, it is seen from the evidence recorded by the investigating officer, Balachandran (A1) and A2 conspired together and making arrangements to attack Mohan and the said Mohan was attacked by other accused by Aruval and he was escaped and one Sathyam was also injured and he was also attacked by the accused persons. On reading of the entire evidence, prima facie materials are available against the petitioner/A1 to commit the offence of 307 r/w 34 IPC .

7.In view of the above circumstances, since there are prima facie materials are available against the petitioner to commit the case to the Sessions Court and the petition filed by the petitioner is not at all maintainable in law. Hence, this court is of the considered view that the relief sought by the petitioner cannot be granted .

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

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



To,

1.The Inspector of Police,
Theni Police Station,
Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.P.Sivachandran, Advocate Sr.No.764

+1CC to Mr.C.Muthu Saravanan, Advocate Sr.No.305

GJM/PM/AM-1-19.1.17-3p-5C

Cr1.O.P.(MD)No.21660 of 2016

3.01.2017