



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.22734 of 2016

and

CrI.M.P. (MD) Nos.11905 and 11906 of 2016

Elia Gnanasekar

: Petitioner/Accused No.1

-Vs-

1. The State represented by
The Inspector of Police,
Eraniel Police Station, Eraniel,
Kanyakumari District.

: Respondent/Complainant

2. Thomas @ Thomachan

: Respondent/De-facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to quash the charge sheet in P.R.C. No.69 of 2015 on the file of the learned Judicial Magistrate Court, Eraniel insofar as the petitioner is concerned.

For Petitioner : Mr.M.Gururaj

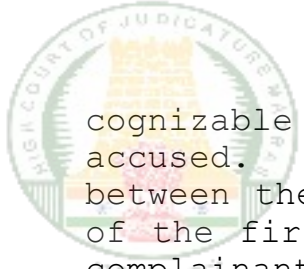
For Respondents : Mr.K.S.Duraipandian
Additional Public Prosecutor

For Respondent-2 : Mr.S.Anto Cletus

O R D E R

The petitioner is the first accused in the criminal proceedings in P.R.C. No.69 of 2015. He has filed this petition to quash the charge sheet in P.R.C. No.69 of 2015 on the file of learned Judicial Magistrate Court, Eraniel.

2.The second respondent has given a complaint on 15.04.2015 stating that two unidentifiable persons attacked him with a deadly weapon and that fortunately, the de-facto complainant escaped but suffered an injury. In the complaint, the de-facto complainant specifically admitted that he was not able to identify any one who attacked. Though the case was registered for offence under Section 324 of I.P.C., it appears that the respondent police has conducted an investigation and found the accused including the petitioner as persons involved in the crime. The charge sheet clearly discloses



cognizable offences as against the petitioner who is the first accused. The allegation is that it is only due to the dispute between the de-facto complainant and first accused, at the instance of the first accused, there was a conspiracy and that the de-facto complainant was attacked. It was also stated that the accused 2 to 4 were hired by the first accused for a sum of Rs.2,00,000/- to murder the de-facto complainant. It is in the said circumstances, the petitioner's contention is that the charge sheet is liable to be quashed as the complaint lodged by the de-facto complainant does not constitute any offence as against the petitioner. This contention is fallacious, having regard to the settled position of law. The charge sheet is supported by the statements obtained from the other accused and various other persons apart from materials. It is in these circumstances, this Court, having regard to the nature of offences alleged as against the petitioner, is not inclined to entertain this petition for quashing the charge sheet. It is open to the petitioner to raise all his contentions in his defence at the time of trial. Hence, this petition is dismissed. The learned counsel for the petitioner requested that the appearance of the petitioner who is the first accused may be dispensed with. It is open to the petitioner to file an application before the Trial Court and the Trial Court will pass appropriate orders. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Eraniel,
Kanyakumari District.
2. -do- through the Chief Judicial Magistrate,
Kanyakumari District.
3. The Inspector of Police,
Eraniel Police Station, Eraniel,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SRM

TE/KP/SAR-IV : 10/11/2017 : 2P/5C