

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.18610 of 2018
and
Crl.MP.Nos.9787 & 9788 of 2018

Duraisamy

Petitioner

vs.

1. The State Rep. by
The Inspector of Police
Alandurai Police Station
Coimbatore.

2. Chandra Ganthi

Respondents

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the entire records pertaining to S.C.No.21 of 2018 pending on the file of the Principal Sessions Judge, Coimbatore and quash the same, by allowing the Criminal Original Petition against the petitioner concerned.

For Petitioner : Mr.S.Saravanan

For Respondents: Mr.C.Iyyapparaj

Additional Public Prosecutor, for R1

O R D E R

This Criminal Original Petition has been filed to call for the entire records pertaining to S.C.No.21 of 2018 pending on the file of the Principal Sessions Judge, Coimbatore and quash the same.

2. One Chandra Ganthi was admitted to Ganga Hospital, Coimbatore and on receiving intimation from the Hospital, the police went there and recorded her statement, based on which, the first respondent police has registered a case in Crime No.12 of 2017 on 16.02.2017 and after completing the investigation, has filed a charge sheet against the petitioner herein for the offence under Section 307 IPC. The case now stands trial in SC.No.21 of 2018. Challenging the prosecution, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent-State.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Admittedly, Chandra Ganthi (de facto complainant) is the

wife of Duraisamy (accused). It is the case of Chandra Ganthi that Duraisamy would never permit her to meet her children; that on 11.12.2017, her son Praveen called and informed her that her grand son is sick and requested her for help; that Chandra Ganthi went to Praveen's house to see her grand son and thereafter, she was dropped back home by Praveen in his car; when Chandra Gandhi entered her house, Duraisamy who was sitting in the entrance of the house questioned and abused her in choicest epithets; Duraisamy further attacked her with a crowbar and caused extensive injuries to her; on hearing her cries, her son Praveen came inside the house and prevented Duraisamy from further assaulting his mother and took his mother to the Hospital. As stated above, on the statement given by Chandra Ganthi in the hospital, FIR was registered and the petitioner is facing prosecution in SC.No.21 of 2018 for the offence under Section 307 IPC.

5. The learned counsel for the petitioner submitted that the accused had already filed a suit in O.S.No.373 of 2017 before the District Munsif, Coimbatore, against Chandra Ganthi and her son Praveen and had obtained, an interim injunction restraining her from entering into his house. The learned counsel for the petitioner contended that the entire allegations are untrue. He further contended that all the witnesses are relatives, who had actually not seen the incident and it is merely an hearsay.

6. Per contra, the learned Additional Public Prosecutor refuted the contentions.

7. On a reading of the charge sheet, it is seen that Chandra Gandhi suffered extensive injuries and she was treated by Dr.Madhu Periasamy, Plastic Surgeon, who has stated that Chandra Ganthi was admitted to the hospital as in-patient on 13.02.2017 and she was discharged on 03.03.2017 and that three injuries suffered by her are grievous in nature. Even if all the witnesses do not support the prosecution case, the evidence of Chandra Gandhi that she was attacked by her husband Duraisamy with crowbar, may itself be sufficient to mulct criminal liability on the petitioner. As regards the pendency of the suit, it is a disputed question of fact, which cannot be gone into in a petition filed under Section 482 Cr.P.C. Thus, when there are sufficient materials against the petitioner, the proceedings in SC.No.21 of 2018 cannot be quashed at the threshold. Hence, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Coimbatore.
2. The Inspector of Police
Alandurai Police Station
Coimbatore.
3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Saravanan, Advocate, S.R.No.49458

Crl.O.P. No.18610 of 2018

SPD(CO)
SMI/09.08.2018



WEB COPY