



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P. [MD].No.18554 of 2018

and

Crl.M.P. (MD) Nos.8307 and 8308 of 2018

Sudhakar

: Petitioner

Vs.

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

2. Dhesiga Sankar

: Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C to quash the charge sheet in C.C.No.207 of 2018 on the file of the Judicial Magistrate No.I, Nagercoil as against the petitioner.

For Petitioner

: Mr.R.Manimaran

For R-1

: Mr.M.Chandra Sekaran

Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.207 of 2018 on the file of the Judicial Magistrate No.I, Nagercoil.

2.The petitioner is A1 before the Court below. The respondent police have filed a final report as against these three persons for an offence under Sections 294(b), 323, 324 and 506(ii) IPC.

3.The learned counsel for the petitioner would submit that there is a delay in registration of F.I.R in this case.

4.The learned counsel for the petitioner would further submit that there is a discrepancy in the discharge summary that has been filed by the respondent police along with the final report. The learned counsel for the petitioner would further submit that nature of the injury sustained by the defacto complainant is simple and therefore, the respondent police ought not to have filed the final report for an offence under Section 324 of IPC.

5.The learned counsel for the petitioner would further submit that there are absolutely no materials to show that the offence under Section 506 (ii) of IPC has been committed by the petitioner.



6.The learned Additional Public Prosecutor for the respondent police would submit that there are sufficient materials collected by the prosecution and the statement of the victim as well as the Doctor would show that the petitioner along with two other persons attacked the victim.

7.The learned Additional Public Prosecutor for the respondent police would further submit that the wound certificate has also been filed along with the final report. Therefore, the learned Additional Public Prosecutor for the respondent would submit that there are prima facie materials for the Court below to proceed further with the case and there are no grounds to quash the proceedings.

8.This Court has carefully considered the submissions made on either side.

9.All the grounds that has been raised by the petitioner are factual in nature and it requires appreciation of evidence. Therefore, these grounds will have to be raised before the Court below during the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.

10.The learned counsel for the petitioner would submit that presence of the petitioner may be dispensed with.

11.The petitioner in this case shall be represented by a counsel and he shall be present before the Court below at the time of framing charges, at the time of questioning under Section 313 Cr.P.C and at the time of pronouncing judgment.

12.It is made clear that the counsel representing the petitioner shall cross examine the witnesses on the very same day, they are examined in chief. The petitioner shall not dispute the identity of any witnesses.

13.In the result, this criminal original petition is disposed of with the above directions and the Court below shall complete the proceedings within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-IV)



To

1. The Judicial Magistrate No.I, Nagercoil.

2. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.

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

+1cc to Mr.R.Manimaran,m Advocate Sr.No.90633

RMI

VB/SV/SAR4/08.11.2018/3P/5C

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and
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