

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.31998 of 2019
and
Cr1.M.P.No.17543 of 2019

Mani @ Manikandan

...Petitioner/Accused

Vs

1. State rep. by,
The Inspector of Police,
P6-Kodungaiyur Police Station,
Chennai.

2. Viji

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the FIR in Cr.No.211 of 2019 on the file of P6-Kodungaiyur Police Station at Chennai and quash the same.

For Petitioner : No appearance.

For Respondents: Mr.S.Karthikeyan,
Additional Public Prosecutor for R1.
R2 - not ready in notice.

सत्यमेव जयते
O R D E R

(through Video Conference)

This Criminal Original Petition has been filed to call for the records pertains to the First Information Report registered in Cr.No.211 of 2019 on the file of first respondent police and quash the same as illegal.

2.In spite of repeated adjournments, even after showing the name of the petitioner in the cause list, neither the petitioner nor his Counsel have appeared before this Court. Heard

Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police.

3.The case of the petitioner is that he has been falsely implicated as Accused No.3 in the petition mentioned First Information Report. The said First Information Report has been registered for the offence punishable under Sections 341, 294 (b), 336, 397 and 506 (ii) of Indian Penal Code, 1860. According to the petitioner, no such occurrence had happened during the relevant point of time.

4.Now on considering the said grounds raised in the petition with the averments found in the First Information Report registered in Crime No.211 of 2019, it was narrated that during the time of occurrence on 14.02.2019, the petitioner and others near to Ezhil Nagar bridge, waylaided the defacto complainant and made threatening to give the money which possessed by the petitioner. Since the defacto complainant refused to give the amount, one of the accused by using the knife attacked the defacto complainant on his abdomen and took away the amount of Rs.1800/- from the pocket of the defacto complainant and thereafter, seeing the public all of them ran away from the place of occurrence.

5.No doubt, the said averments found in the First Information Report, clearly constitutes prima facie case for the offence of robbery, hence to find out the truth, the same needs elaborate investigation. At this juncture, it is relevant to see the Judgment of the Hon'ble Apex Court in CrI.A.No.255 of 2019 in the case of "Sau.Kamal Shivaji Pokarnekar -vs- The State of Maharashtra & Ors." wherein it has been held as follows:

"9....A perusal of the complaint discloses that prima facie, offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

6.Applying the ratio laid down in the above referred Judgment, herein also, as already observed, since the averments found in the First Information Report constitutes prima facie case, it is not necessary to invoke the provisions under Section

482 of Criminal Procedure Code.

7. Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

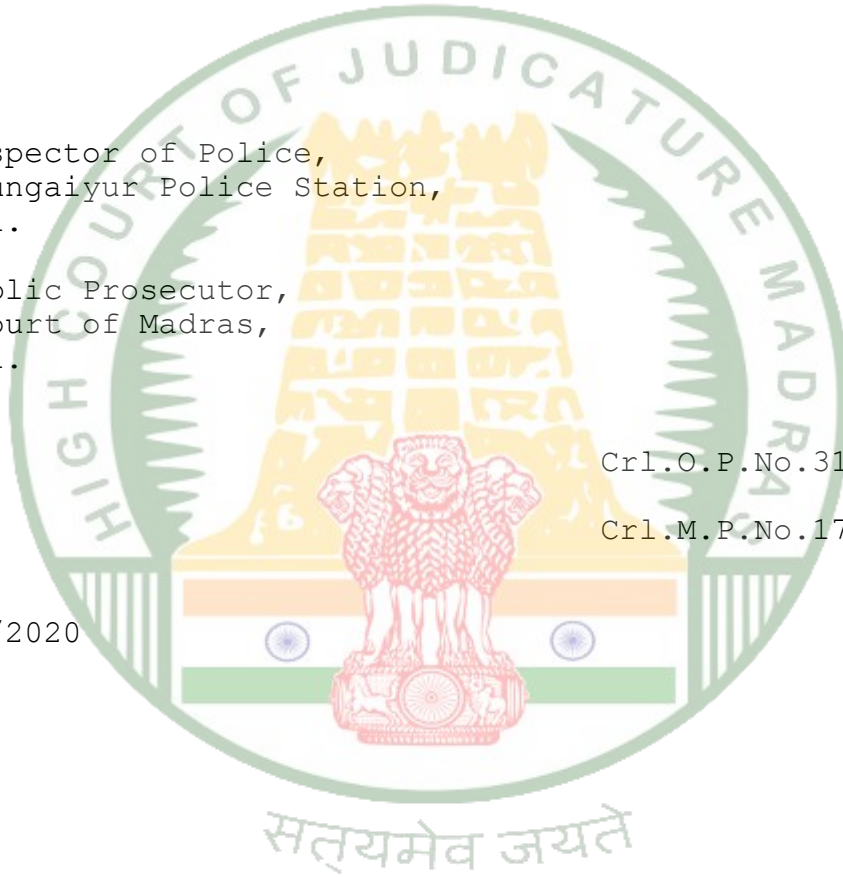
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To

1. The Inspector of Police,
P6-Kodungaiyur Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P.No.31998 of 2019
and
Crl.M.P.No.17543 of 2019

CO (NRL)
BDL/31/12/2020



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