



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.09.2020
CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

Crl.O.P.(MD)No.10292 of 2020
and
Crl.M.P.(MD)No.4749 of 2020

Rajapandi @ Dhanush

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police,
Theni Police Station,
Theni District.
(Crime No.611 of 2020)

2.K.Mahendra

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to Crime No.611 of 2020, dated 11.04.2020 on the file of the Inspector of Police, Theni Police Station, Theni and quash the same as against the petitioner.

For Petitioner : Mr.K.Kevinkaran

For R1 : Mr.R.Erottuchamy
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed seeking the relief to call for the records relating to Crime No.611 of 2020, dated 11.04.2020 pending on the file of the first respondent and quash the same as far as the petitioner is concerned.

2.The case of the prosecution is that on 11.04.2020, when at the time the second respondent went to his coconut grove along with his nephew, the petitioner herein attempted to stop the motor pump and at the same time, the second respondent saw the four persons namely, Sundaramahalingam, Pandithurai, Rajapandi and Sanjivi who were in his grove and stealing the coconuts from the trees. When the same was questioned by the second respondent, all the persons who were presented there, attacked the second respondent by using



the stick and caused injuries. The said incident was noticed by the neighbouring land owners. Therefore, a case has been registered against the petitioner for the offences punishable under Sections 447, 324, 379 and 506(ii) of I.P.C.

3.The learned counsel appearing for the petitioner would submit that due to the previous enmity, the second respondent herein lodged a false complaint against the petitioner and thereafter without any enquiry the first respondent foisted a false case and therefore, the First Information Report registered in Crime No.611 of 2020 is liable to be quashed.

4.Per contra, the learned Government Advocate (crl.side) appearing for the first respondent would submit that in respect of the alleged offence, after the registration of F.I.R, the first respondent herein examined the witnesses and recorded their 161 Cr.P.C statement. Ultimately, the investigation is kept pending for receiving wound certificate from the Doctor.

5.Upon considering the submission made by the learned counsels appearing on either side, it would be relevant to see the averments found in the First Information Report. The First Information Report would clearly disclose the fact that during the time of occurrence, the petitioner and others attacked the second respondent and caused injury. Further, they have stolen away the coconuts from the coconuts grove. The petitioner herein being the third accused, has also participated in the said occurrence. Therefore, it cannot be said that a false case has been registered against the petitioner.

6.At this juncture, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **Sau.Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others [Criminal Appeal No.255 of 2019, dated 12.02.2019]**, 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 Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused.''

7.Therefore, by following the verdict of our Hon'ble Apex Court being the reason that the contention raised by the petitioner is in respect of the factual aspect, I am of the considered opinion that there was no abuse of process was committed by the first respondent police in registering the FIR. Accordingly, the petition filed by the petitioner is devoid of merits.



8. In view of the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Inspector of Police,
Theni Police Station,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.10292 of 2020
and
Crl.M.P. (MD) No.4749 of 2020
25.09.2020

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