



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2021

PRONOUNCED ON : 22.09.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.3 of 2018

Yuvaraj ... Petitioner/Complainant

Vs.

1.Jawahar

2.Ashok

3.Prabu

4.Tamil Selvan

... Respondents/Accused

Prayer: This Criminal Revision Case has been filed under Section 397 and read with Section 401 of Cr.P.C., to call for the records in M.P.No.53 of 2017 dated 15.11.2017 on the file of the Learned Metropolitan Magistrate-XV, George Town, Chennai and set aside the same.

For Petitioner : Mr.Dr.S.Manoharan

For Respondents: Mr.D.Alexis Sudhakar

O R D E R
(Video Conference)

The private complainant is the revision petitioner herein.

2.The revision petitioner has filed a private complainant under Section 200 of Cr.P.C., before the learned XV Metropolitan Magistrate, George Town, Chennai, in M.P.No.53 of 2017. The revision petitioner herein/complainant and five witnesses sworn statements recorded under Section 202 of Cr.P.C.

3.The sum and substance of the private complaint is that on 29.09.2016, the private complainant was manhandled by the respondent police at the gun point and subjected to assault by iron rod and thereby, he got injured in his right leg and thereafter, he was admitted in the Stanley Government Hospital. Thereafter, the revision petitioner herein/complainant has given a complaint before the learned Magistrate to punish the accused and the learned Judge has dismissed the complaint. Hence, the Criminal Revision Petition.

4.Heard Dr.S.Manoharan, learned counsel for the revision petitioner and Mr.D.Alexis Sudhakar, learned counsel for the



respondents and perused the materials placed on record.

5. The statement in the complaint and PW1 version is that on 29.09.2016, at about 12.30 p.m., while the complainant was sleeping along with his friends viz., Appu, Manikandan and Sobanraj, in his friend house at Thiruporur, the accused 2 to 4 came and knocked the door, on hearing the sound, the complainant opened the door and as soon as the second accused assaulted him on face, other accused tide his hand and legs and put him into Police Vehicle and took him to H1 Washermenpet police Station. There the first accused has shown him a pistol and said that he is going encounter the complainant. After some time, at the instruction of the first accused, the third and fourth accused caught hold his hands and second accused tide his mouth with cloth and then the first accused came with iron rod forcefully assault the complainant's right forearm. Thereby, the complainant sustained bleeding with fracture and again the accused 3 and 4 caught hold his legs and second accused caught hold his hands with intent him preventing to move, the first accused forcefully assaulted the complainant on his right legs by iron rod and thereby, the complainant sustained fracture on right leg and thereafter, the accused threatened him by saying that they have broken legs and hands instead of encounter and further they threaten the complainant by saying that if he express the same to anyone, he will be shot dead within their custody. Thereafter, he was admitted in Stanley Hospital. When the complainant was admitted in the Stanley Hospital, he was threatened by the first accused/first respondent that not to depose anything to the Magistrate and hence, he has not disclosed the same and the learned magistrate was pleased to remand him in Crime No. 1032 of 2016, for the offence under Sections 341, 294(b), 323, 392, 397, 336, 427 & 506(2) of IPC on 30.09.2016.

6. After perusal of the evidence and the complaint and other witnesses, it is seen that the complainant either in the statement or in the affidavit before the learned Judicial Magistrate Court, has not disclosed about the alleged occurrence to the Magistrate on 30.09.2016 during the time of remand in connection with the above Crime No.1032 of 2016 and he has assigned reason that he was subjected to cruelty. According to him there is threat that there will be encounter by the Inspector Jawahar.

7. On perusal of the accident report, it is mentioned as "History of fall from the stanley subway". The complainant has given same statement before doctor while admission for treatment and also before Magistrate while remand. But before Court, the statement given by the complainant factually contradicts his earlier two statements i.e., before the Doctor and Magistrate.



inordinate delay in filing private complaint for the alleged offence and at the time of remand, the private complainant has not deposed anything to the Magistrate and also even after discharge from the Lakshmi Hospital at Cuddalore, he has not taken any steps to lodge complaint. Further stated that even as per the evidence of PW3/advocate, he does not say anything about the alleged delay since there is a material contraction as to the alleged date of the occurrence and accordingly held that the reason assigned for the considerable delay in filing statement and complaint that he was subjected to threat of encounter of the respondent police, could not be considered and also stated that the contradict statement before Doctor, Magistrate and Court and also inordinate delay in launching the complaint creates doubt over the complaint about alleged occurrence and rejected the complaint.

9. Before this Court, the respondent entered appearance through advocate and they have filed a counter. In the said counter he narrated facts, which leading to arrest of the private complainant on the various criminal activities alleged to have been involved by the petitioner and they are summarized as under:

(a). The revision petitioner was involved in several criminals cases including murders, attempt to murder, rioting, extortion, robbery, dacoity and violation of Arms Act in and around the city of Chennai. Due to his criminal activities, police had opened a history-sheet against him to keep a tab on his criminal affairs. On 30.09.2016 @ 8:00 AM the revision petitioner committed theft using deadly criminal force with lethal weapons and also disturbed public and order breached peace by launching attacks on the public who thronged to deter the revision petitioner from committing this offence.

(b). Following this incident, on the same day 30.09.2016 at 9:00 hrs, a F.I.R. has been registered by Inspector Mr.P.Jawahar, against this revision petitioner for the offences U/s. 341, 294(b), 323, 392, 397, 336, 427, 506 (ii) IPC pursuant to the receipt of a written complaint given by the victim, Mr. Pandiyarajan vide H.1. Cr.No. 1032 of 2016 as the information in the complaint prima facie disclosed cognizable offences. The procedure of registering the F.I.R. was performed in accordance to law prescribed in Section 154 of CrPC.

(c). On 30.09.2016 evening on receipt of secret and specific credible information, Inspector of Police along with his police officials, reached out to the hide-out of the revision petitioner near St. Rocks Church, Sensing police party approach, the revision petitioner attempted to escape the arrest and while he ran over the railway track near government Stanley hospital subway and jumped into the Stanley subway he fell down and sustained injuries on his right hand and leg. After a brief chase the police party reached out to the injured revision petitioner and took him to the hospital to avail medical assistance for his injuries and then arrested



in the manner known to law.

(d).The Police personnel who carried out the arrest and were handling the interrogation of the arrestee were bearing accurate, visible and clear identification and name tags with their designations. The particulars of all such police personnel, who handle interrogation of the arrestee has been recorded as per police standing orders.

(e).On 30.09.2016 at 18.10 hrs the revision petitioner was admitted in the hospital for medical examination and he had stated the reasons and nature of injuries to the Doctor as that as it happened and reasons for injury in leg and arm are due to fall from Stanley subway (while escaping from the police) on 30.09.2016 at 5.30 pm at Stanley Subway".

(f).Copies of all the documents including, seizure mahazar reporting recovery of stolen properties and knife, the memo of arrest, F.I.R. was submitted to the Magistrate for his record. On 30.09.2016, on request for remand given to the jurisdiction learned magistrate (XV MMC, G.T., Chennai), on receipt of the said request the learned Magistrate visited the Stanley hospital and enquired/medically examined this revision petitioner/accused at about 20.15 hrs and further confined the revision petitioner to judicial custody after seeking report from the revision petitioner that he was no point in time harassed either physically or mentally by the police officials.

(g).The recitals of the remand report of the learned Magistrate states in a crystal clear tone that "Reasons for arrest has been explained to the revision petitioner and that there are no complaints by the revision petitioner and the accused is dressed with bandage @ right hand and @ right leg (POP). Further it is submitted by the accused that he himself fell down from bridge @ Stanley subway 5.30 PM @ 30.09.2016 while attempting to flee from arrest. Right to legal aid explained. Further the revision petitioner was remanded to judicial custody till 14.10.2016".

(h).Further to this arrest and remand to judicial custody, on 20.10.2016 this revision petitioner was enlarged on bail in Crl.M.P.No. 17416/2016 by the learned Principle Sessions Judge at Chennai, till then his remand was periodically extended.

(i).On 04.01.2017, after being released on bail from judicial custody, after the lapse of two months, the revision petitioner has preferred this private complaint before the learned XV Metropolitan Magistrate Court, with allegations as if the police officials have caused injuries in police custody. The revision petitioner in a strange manner has not specified any motive for the police officials to cause or inflict any injury upon him for reasons unknown.

10.Based upon the narrations, the learned counsel for the respondent would contend that the respondent herein are police officials, they have executed the law in proper manner and



they have arrested the complainant and no violence have been taken. At the time of arrest, the revision petitioner/complainant attempted to escape and ran over the railway track near government Stanley hospital subway and jumped into the Stanley subway and hence, he fell down and sustained injuries on his right and leg. In order to threaten enforcing authority, he has come forward with false version as if the police officials have cause injuries in the police custody. Recording the accident register, the learned Magistrate has rejected the complaint by disbelieving his version that based upon the accident register that history of accidental fall from the Stanley Subway, on is own self, the accused/revision petitioner sustained injuries.

11.At this juncture, it remains to be stated that one Mr.Rajendran, learned counsel for the revision petitioner before the Magistrate, have categorically stated that on 29.09.2010, he met the revision petitioner at the Police Station and subsequently, he met the petitioner at Government Royapettah Hospital, Chennai for the legal assistance and the said person is a practicing advocate, had not informed to anyone including the jurisdiction Court about the said allegations assumes significance.

12.In the counter, it is also stated about the previous history of the criminal activities alleged to have been carried by the revision petitioner, which are as under :

(a).This revision petitioner Yuvaraj alias Eli Yuvaraj has been alleged accused as to be involved in 13 serious offences in and around Chennai that encompasses murder for gain, attempt to murder, extortion, rioting, arms act violation and commission of offences causing breach of peace and breach of public order. The revision petitioner is potential and active rowdy-sheeter and surveillance is necessary to monitor and manage his activities. In order to distract the police peace keeping activities he has framed this complaint and revision against the respondents.

(b).This revision petitioner had even eliminated a practicing Madras High Court Advocate in a petty quarrel using fire arms and explosives. This incident has created panic and fear amidst public resulting in public coming forward to report any information of offences commissioned by the revision petitioner.

(c).This revision petitioner had involved in a day-light murder at Chennai government royapettah hospital in full public view. The gang lead by the revision petitioner entered the orthopaedic ward and attached 'Bokkai' Ravi and his associates, Santhakumar and Vicky alias Tamilchelvan. Ravi died soon after while the others escaped with injuries. The entire episode happened in front of the eyes of public at large who were mostly patients suffering ill health.



13. The history of criminal records of the revision are listed below:

S.No	Police Station	Crime No.	Offences listed under Sections major and minor criminal acts.
1	H.5.L&O	269/2008	341, 147, 148, 302 IPC
2	H.5.L&O	1504/2012	147, 148, 294(b), 341, 323, 336, 427, 307, 506(ii) IPC
3	H.5.L&O	1541/2012	294(b), 324, 506(ii) IPC
4	H.5.L&O	451/2013	147, 148, 341, 324, 302, 506(ii) IPC
5	H.5.L&O	453/2013	341, 294(b), 323, 307, 336, 427, 506(ii) IPC
6	H.5.L&O	373/2014	341, 294(b), 336, 427, 392, 397, 506(ii) IPC
7	H.3.L&O	260/2014	341, 323, 384, 427, 336, 307, 506(ii) IPC
8	E-6.L&O	11/2014	341, 342, 307, 302, 506(ii) IPC r/w 120 IPC Royapettah Government Hospital Murder Case.
9	M-8.L&O	683/2015	341, 294(b), 336, 427, 392 r/w 397, 506(ii) IPC r/w 34 IPC
10	H-1.L&O	1032/2016	341, 294(b), 323, 382, 397, 336, 427, 506(ii) IPC
11	Magapallipuram P.S	335/2015	302 IPC r/w 27(3) Arms Act murder of Mr.Kamesh who is practicing as an advocate at High Court, Madras.
12	N-3 L&O	1728/2017	147, 148, 341, 307, @ 147, 148, 341, 302 IPC
13	Thiruporur P.S.	561/2017	147, 148, 294(b), 302 IPC
14	H.5.L&O	269/2008	341, 147, 148, 302 IPC
15	H.5.L&O	451/2013	147, 148, 341, 324, 302, 506(ii) IPC
16	E-6.L&O	11/2014	341, 342, 307, 302, 506(ii) IPC r/w 120 IPC Royapettah Government Hospital Murder case.
17	Magapallipuram P.S.	1728/2017	U/s.302 IPC r/w 27(3) Arms Act High Court Advocate Kamesh Murder.
18	N-3 L&O	1728/2017	147, 148, 341, 307 @ 147, 148, 341, 307 IPC
19	Thiruporur P.S.	561/2017	147, 148, 294(b), 302 IPC

14. Accordingly, the learned counsel based upon the above statistics would contend that the revision petitioner is



trying to initiate the criminal proceedings, against the police officials only with a view to initiate criminal proceedings against the respondent are to get over from the clutch of law and earlier proceedings by making false and baseless allegations against the police officials which are proper evidence as referred to this private complaint.

15.After perusing the evidence of PW3 and PW4, who are advocates and also taking note of the material contradiction as pointed by the learned Magistrate and the statement of the petitioner before the Doctor and before the Magistrate, this Court finds that the reason for the inordinate delay in launching the complaint creates doubt over the complainant about the alleged occurrence and hence, the order passed by the learned Magistrate does not warrant any interference.

16.Accordingly, this Criminal Revision Case stands dismissed. The order passed in M.P.No.53 of 2017, by the Learned Metropolitan Magistrate-XV, George Town, Chennai, dated 15.11.2017 is hereby confirmed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To:

The Metropolitan Magistrate-XV,
George Town, Chennai

Cr1.R.C.No.3 of 2018

RSI (CO)
GN(13/10/2021)