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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.19305 of 2021 and
Crl.M.P.Nos.10601 & 10602 of 2021

Raj @ Mariya Joseph Raj @ Raji ... Petitioner

Versus

1. The State Rep by:-
Inspector of Police,
B-2, Vishnu Kanchi Police Station,
Kanchipuram,
Kanchipuram District.
(Crime No.28 of 2020).

2. Dharani ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in P.R.C.No.28 of 2020 on the file of the learned Judicial Magistrate No.I, Kanchipuram herein.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.R.Vinothraja,
No:1 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.28 of 2020, on the file of the Judicial Magistrate No.I, Kancheepuram.

2.The petitioner/A3 is facing trial in P.R.C.No.28 of 2020, for offence under Sections 341, 294(b), 324, 120-B, 307, 342 and 32 IPC, before the learned Judicial Magistrate No.I, Kancheepuram.

3.The learned counsel for the petitioner submitted that there are six accused in this case, in which A1 and A2 were engaged by the petitioner/A3 to do away the 2nd respondent, Manager of SBK PARK IN lodge at Gandhi Road, Kancheepuram and



also she is doing real estate business with one Latchumanan. The said Latchumanan is due to pay a sum of Rs.10 lakhs to the petitioner and the petitioner often demanded the said amount to repay. Thereafter, the petitioner engaged A1 and A2 to collect the amount from the said Latchumanan, who informed A1 and A2 that the 2nd respondent is the reason for not repaying the money to the petitioner. Hence, the petitioner had engaged A1, A2, A4 to A6 to do away the 2nd respondent. It is alleged that on 08.01.2020, the A1, A2, A4 to A6 attacked the 2nd respondent and the case in Crime No.18 of 2020 was registered on 09.01.2020. According to the petitioner, A1 and A2 could not have participated in the alleged assault, since A1 was detained under the Goondas Act on 20.12.2019. In support of his contention, the petitioner had produced the order copy of this Court in H.C.P.No.75 of 2020, dated 28.05.2020. He further submitted that A2 in this case, was surrendered before the learned Judicial Magistrate, Arni in connection with Crime No.330 of 2019 on 07.01.2020. Hence, the above case against the accused is an artificial one and he prayed for quashing of the proceedings against the accused.

4.The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police submitted that A1 and A2 are charged for offence of criminal conspiracy. In this case, on 08.01.2020 when the 2nd respondent was proceeding in her bike, the petitioner along with other accused waylaid and assaulted her. The contention of the petitioner that A1 and A2 were detained before the occurrence will not be a defense, since they are conspirators in this case. The other points raised by the petitioner are not sustainable to quash the proceedings. All the witnesses in this case, clearly stated about the assault committed by the other accused. On completion of investigation, charge sheet filed before the learned Judicial Magistrate No.I, Kancheepuram, which was taken on file as P.R.C.No.28 of 2020. Since the petitioner and other accused are absconding themselves one after another, the case could not be committed to the Court of Sessions. Hence, he prayed for dismissal of this petition.

5.The grounds that have been raised by the learned counsel for the petitioner is purely factual in nature and this Court cannot go into the same in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise these grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

6.This Criminal Original Petition stands dismissed, with a direction to the learned Judicial Magistrate No.I, Kancheepuram to complete the committal proceedings, within a period of one week from the date of receipt of a copy of this order. If the



accused adopts any dilatory tactics, it is open to the learned Judicial Magistrate No.I, Kancheepuram to cancel the bail granted to the accused. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court No.I,
Kancheepuram.
2. The Inspector of Police,
B-2, Vishnu Kanchi Police Station,
Kanchipuram,
Kanchipuram District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.19305 of 2021

PA (CO)
CT 06/01/2022