



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 01.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl. O.P. No. 20238 of 2017
and
Crl.M.P.Nos.12155 and 12156 of 2017

1.Thirumoorthy
2.Aruchamy
3.Athikadu Rasu alias Arumugam
4.Easwarasamy
5.Balamurugan . . . Petitioners

Versus

1.The State,
Rep By Inspector of Police,
Vadakipalayam Police Station,
Pollachi,
Coimbatore District.
(CC.No.46 of 2017)

2.Velliangiri . . . Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and to quash the Charge Sheet filed in C.C.No.46 of 2017, pending on the file of the Judicial Magistrate-I, Pollachi.

For Petitioners : Mr.N.Umapathi
For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side) for R1
: No appearance for R2

O R D E R

This Criminal Original Petition has been filed to quash the Charge Sheet in C.C.No.46 of 2017, for the offences punishable under Sections 148, 294(b), 324, 326, 506(ii) IPC r/w.149 IPC, pending on the file of the learned Judicial Magistrate-I, Pollachi.



2. The crux of the prosecution case is that the accused has formed unlawful assembly in a land belong to the de facto complainant and abused and caused injury, as a result, the de facto complainant suffered fracture on the nose. Hence the complaint.

3. Heard Mr.N.Umapathi, learned counsel appearing for the petitioners, Mr.R.Kishore Kumar, learned Government Advocate (Criminal Side) for the first respondent. There is no representation on behalf of the second respondent.

4. The learned counsel appearing for the petitioners submitted that in the First Information Report, names of only three people were impleaded, similarly in 161 statement. Whereas, in the later part of investigation under the pretext of further investigation, A.4 and A.5 have been implicated. There is no material to indicate whether permission has been obtained by the Court to implicate A.4 and A.5.

5. It is to be noted that First Information Report is not an encyclopedia to contain all the minute details. Similarly, 161 Statement cannot be also given much importance. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 for quashing criminal proceedings. The Hon'ble Apex Court in RAJEEV KOURAV Vs. BAISAHAB AND OTHERS (2020) 3 SUPREME COURT CASES - 317, wherein at para 10, it has been held as follows:-

"The conclusion of the High Court to quash the criminal proceedings is on the basis of its assessment of the statements recorded under Section 161 Cr.P.C. Statements of witnesses recorded under Section 161 Cr.P.C., being wholly inadmissible in evidence cannot be taken into consideration by the Court, while adjudicating a petition filed under Section 482 of the Code of Criminal Procedure."

6. Whether the permission is obtained for re investigation or further investigation cannot be gone into at this stage, when the final report itself indicate that further statements have been recorded. Therefore, question of obtaining permission from the Court even before filing the final report does not arise at all. In such a view of the matter, I



do not find any merit in this case.

7. Accordingly, this Criminal Original Petition is dismissed. It is for the lower Court to frame necessary charges, as the charge of 148 of IPC is very much available. It is for the lower Court to decide whether all the accused are liable under Section 149 IPC also. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

psa/mvs

To

1.The Judicial Magistrate-I,
Pollachi.

2.The Inspector of Police,
Vadakipalayam Police Station,
Pollachi,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Umapathi, Advocate SR.No.62809

Cr1. O.P. No. 20238 of 2017

SVI (CO)
GN(13/12/2021)