



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.1124 OF 2017

AND

CRL.M.P.NOS.799 AND 800 OF 2017

A.Mani

... Petitioner

Versus

1. The State Rep. by
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi,
Villupuram District.

2. The Sub-Inspector of Police,
Kallakurichi Police Station,
Kallakurichi,
Villipuram District.

3. M.S.Rajendran

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the Impugned order dated 02.03.2006 passed by the Judicial Magistrate, Kallakurichi, Villupuram District permitting for reinvestigation and impugned charge sheet in S.C.No.364 of 2016, on the file of the Sub-Court, Kallakurichi, Villupuram District and quash the same.

For Petitioner : Mr.K.Raja
For Mr.N.Kolandaivelu

For Respondents : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)
For R1 and R2

No appearance for R3



ORDER

This criminal original petition is filed to quash the proceedings in impugned order dated 02.03.2006 passed by the learned Judicial Magistrate, Kallakurichi, Villupuram District, filed against the petitioner for the offence under Section 307 IPC, and permission for reinvestigation in the impugned charge sheet in S.C.No.364 of 2016, on the file of the Sub-Court, Kallakurichi, Villupuram District.

2. The crux of the allegation in the final report is that the accused, due to previous enmity has made an attempt on the life of the de-facto complainant and hit against his motorcycle by a lorry, bearing Registration No.TDM 1044, thereby the petitioner herein/A1 has committed an offence under Section 307 IPC r/w.109 IPC and A2 is said to have committed an offence under Section 307 IPC.

3. The main submission of the learned counsel appearing for the petitioner is that the accident originally occurred on 17.02.2004, whereas the complaint was given on 05.03.2004, the same is silent about the alleged attempt made by the accused. Thereafter, the de-facto complainant has given another complaint on 26.05.2004, implicating the accused. After an elaborate investigation, the prosecution has filed a negative report on 23.12.2005. Thereafter, an application has been filed by the Sub Inspector of Police on 24.02.2006, to reopen investigation. Thereafter, the Inspector of Police has conducted the investigation and filed a final report. Hence it is submitted by the learned counsel appearing for the petitioner that the statement recorded by the police, do not constitute any offence against the petitioner. The accused and the de-facto complainant are close relatives. There is a business dispute between the accused and the de-facto complainant and stage by stage, the case has been developed by the de-facto complainant, hence it is submitted that it is a fit case where the court can exercise jurisdiction of this court under Section 482 Cr.P.C. to quash the proceedings against the petitioner.

4. Heard the learned counsel on both sides and perused the entire materials available on records.

5. Though, originally the offence was said to have been reported as an accident, there was no implication of the accused at the first instance. Thereafter, it appears that though a First Information Report has been lodged with a delay, the prosecution has proceeded further on the basis of the further complaint dated 26.05.2004 and finally filed a final report by the Inspector of Police on 23.12.2005, closing the case. Thereafter, the orders of the Magistrate was obtained on



24.02.2006 for further investigation. Based on the further investigation, now the prosecution has filed the final report for the offence alleged under Section 307 IPC r/w 109 IPC.

6. It is the contention of the learned counsel appearing for the petitioner that, at every stage there was development and improved version of the de-facto complainant only in order to implicate the accused. His submission is though well founded, at this stage, this Court cannot make any roving enquiry, to the validity of the statements recorded at various stages. The appreciation of the evidence, is in the domain of the trial Court. Even the validity of the 161 statement and assessment of the statement recorded under Section 161 IPC, cannot be gone while exercising power under Section 482 Cr.P.C. which is not permissible, and it is highly deprecated by the Apex Court in Rajeev Kourav v. Baisahab and others reported in (2020) 3 SCC 317. In such view of the matter, when the final report has been filed and further investigation was ordered in the year 2006 and the final report was filed and the court took cognizance of the offence, at this stage, merely on the basis of some discrepancies in the statement of the witnesses, the entire final report cannot be quashed. It is for the trial Court to appreciate all the facts and evidence and decide the case on its own merits. In such view of the matter, I do not find any merit in this petition.

7. Accordingly, the criminal original petition is dismissed. At this stage, the learned counsel appearing for the petitioner seeks the indulgence of this Court to dispense with the personal appearance of the petitioner before the trial Court. The personal appearance of the petitioner/accused before the trial Court is dispensed with, except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C., or on any other date as may be required by the trial Court. Consequently, the connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1. The learned Judicial Magistrate,
Kallakurichi,
Villupuram District.



2. The Sub-Court,
Kallakurichi,
Villupuram District.
3. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi,
Villupuram District.
4. The Sub-Inspector of Police,
Kallakurichi Police Station,
Kallakurichi,
Villupuram District.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Kolandaivelu, Advocate, S.R.No.69424

CRL.O.P.NO.1124 OF 2017

AD(CO)
PBS/12/01/2022