



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.No.25982 of 2017
and
CRL.MP.No.14990 of 2017

S.Sankar

... Petitioner

Vs.

1.State by
Inspector of Police
Uthangarai Police Station,
Krishnagiri District,
(Crime No.145/2017)

2.G.Chokkalingam

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in the connection with charge sheet laid under sections 452, 294(b), 323, 324 and 506 (ii) of IPC., in C.C.No.91 of 2017 pending on the file of learned Judicial Magistrate, Uthangarai in respect of petitioner and quash the same.

For Petitioner : Mr.G.Mohanakrishnan

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

For R2 : Mr.G.Chockalingam

ORDER

This petition has been filed to call for the records in the connection with charge sheet laid under sections 452, 294(b), 323, 324 and 506 (ii) of IPC., in C.C.No.91 of 2017 pending on the file of learned Judicial Magistrate, Uthangarai and quash the same.

2.This petition has been filed to quash the F.I.R. mainly on the ground that the present petitioner was not present at the time of the alleged occurrence, whereas, he was in Pune and the



learned counsel Mr.G.Mohanakrishnan, would draw the attention of this Court to show that this Court has already directed the prosecution to verify about the same.

3. Today, a status report is filed by the 1st respondent police, wherein it is ascertained that though C.R.P.F. officials have given some statement to the fact that the petitioner was in Pune from 04.04.2017 to 10.04.2017 but all the witnesses that have been examined by the prosecution asserted the presence of the petitioner in the place of occurrence and the defacto complainant has also stated that he has sustained injury and the same is stated to have caused by the petitioner. This plea of alibi is a question of fact and that the same has to be established. The petitioner also allegedly attacked two other persons in the said occurrence.

4. This Court while exercising jurisdiction under section 482 Cr.P.C., cannot take any fact finding task based on the disputed fact, this plea of alibi is a fact not otherwise relevant become relevant as per Section 11 of the Indian Evidence Act. It requires proper proof to establish such plea,

5. In view of the above, this Criminal Original Petition stands dismissed. The personal appearance of the petitioner is dispensed with before the trial Court except for receiving copies, answering charges, questioning under Section 313 Cr.P.C. and in other dates that may be required by the trial Court.

6. It is open to the petitioner to examine any of the eye witnesses from the department to prove his plea before the trial Court. The Lower Court shall take into consideration the certificate issued by the C.R.P.F and summon the particular witness to decide the plea of alibi. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS VII)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Uthangarai, Krishnagiri District.



2. The Inspector of Police
Uthangarai Police Station,
Krishnagiri District.

3. The Public Prosecutor
High Court of Madras
Chennai.

+1cc to Mr.G.Mohanakrishnan, Advocate, S.R.No.64963

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KV[co]
NSK 16/12/2021