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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

CRL.O.P.No.28342 of 2017

and

CrI.MP.No.16090 of 2017

Syed Ali

...Petitioner

Versus

1. The State rep by
The Inspector of Police,
Adayar, J-2 Police Station,
Chennai - 600 020.

2. Ashok

...Respondents

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records pertains to Crime No.1790 of 2017 on the file of Respondent Police and quash the same.

For Petitioner : Mr.A. Gouthaman

For Respondents : Mr.E.Raj Thilak
Govt. Advocate (for R1)

Mr.R.Parthasarathy (for R2)

ORDER

This Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No.1790 of 2017 registered by the first respondent police for the offences under Sections 294(b), 323 and 506(i) of IPC as against the petitioner.

2.The case of the prosecution is that the petitioner's brother, namely, Syed Ifran Ahamed was admitted in K.L.Hospital, Neelankarai, on 23.10.2017 due to some heart ailments. After receiving a sum of Rs.60,000/-, the authorities of the hospital



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intimated to the petitioner that the petitioner's brother should be taken to Malar Hospital for further treatment since there was no progress. Immediately, the petitioner along with his relatives took his brother to Malar Hospital. Despite repeated requests to take the petitioner's brother to ICU for starting treatments, they asked them to fill up forms and other unnecessary formalities before starting treatment. At the time of discharging from K.L.Hospital, Neelankarai, his brother's health condition was stable. Since the doctors of the Malar Hospital, without giving treatment neglected and at about 8.45 p.m, they informed that the petitioner's brother died. When the petitioner and his relatives questioned the treatment given by the doctor, the defacto complainant who answered in lethargic manner and asked to clear the body of his brother from the hospital immediately without causing nuisance to other. In view of the said incident, there was some altercation between the petitioner and the defacto complainant. At that time, the defacto complainant/Dr.Ashok pushed out the petitioner and his relatives from the Hospital. Subsequently, the petitioner/accused abused and threatened the defacto complainant that he will kill him and slapped him on the left side of his face. Further, the accused took MLC register from the table and threw out. Hence, the de-facto complainant lodged a complaint and the same was registered in Crime No.1790 of 2017 under Sections 294(b) 323 and 506(i) of IPC. Aggrieved over the same, the petitioner filed this petition to quash the said proceedings.

3. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the first respondent and perused the materials placed on record.

4.On perusal of the records, it is seen that the petitioner's brother Syed Irfan Ahamed was suffered heavy chest pain on 23.10.2017 and immediately, he was admitted in K.L.Hospital, Neelankarai and thereafter, he was shifted to the Malar Hospital for further treatment, where the authorities of the Malar Hospital informed the petitioner that his brother died. In this regard, when the petitioner and his relatives questioned the treatment, the defacto complainant had answered in a lethargic manner, hence, an altercation had happened. Further, the defacto complainant pushed out the petitioner and his relatives from the hospital. Hence, due to sudden provocation, the petitioner assaulted the defacto complainant. Admittedly, there was no previous enmity between the petitioner and the defacto complainant. It is very clear that the occurrence had taken place in a sudden provocation, since the petitioner lost his brother in a treatment. Therefore, this Court is inclined to quash the proceedings in Crime No.1790 of 2017 pending on the file of respondent police.



5. Accordingly, the Criminal Original Petition is allowed and the proceedings/F.I.R in Crime No.1790 of 2017 pending on the file of respondent police is hereby quashed. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

msm

To

1. The Inspector of Police,
Adayar, J-2 Police Station,
Chennai - 600 020.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.28342 of 2017

NRL(CO)
RGA(19/01/2022)