

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.No.26806 of 2018

Abdul Aleem

...Petitioner

Versus

1. The State rep.by
The Inspector of Police,
B-1, North Beach Police Station,
Chennai 600 001.

2. Mohideen

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records of C.C.No.1817 of 2017 pending on the file of the VII Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.M.R.Sheik Abdul Rahim

For RR1 : Mr.C.E.Pratap
Government Advocate (Crl.Side)

O R D E R

The petitioner has filed this petition seeking to call for records of C.C.No.1817 of 2017, pending on the file of the VII Metropolitan Magistrate, George Town, Chennai.

2. The case of the prosecution is that there was some money dispute between the petitioner and the defacto complainant's family. On the date of occurrence on 10.10.2015, at about 9.30 p.m, when the defaco complainant riding his two wheeler, the petitioner along with four persons in an auto rickshaw, intercepted and pushed him down from his vehicle and attacked him with iron rods and knives and also abused him in filthy language. Hence a complaint was lodged against the petitioners.

3. The learned counsel appearing for the petitioner submitted that initially the law enforcing agency had filed the criminal case for the offences under Section 341, 294(b), 324 and 506(ii) IPC, however, in the final report, Section 324 IPC was removed as there is no AR report and witness of Doctor, who

treated the defacto complainant and thereby, there is more variation and contradiction between the FIR and the final report and have no supportive evidence to establish the offences against the petitioner. Further it is submitted by the learned counsel appearing for the petitioner that as alleged by the defacto complainant, there is no such incident was happened on the said date of occurrence at the relevant point of time. The defacto complainant, in order to wreck vengeance against the petitioner, due to earlier money dispute, has falsely implicated the petitioner in this case and hence prays for quashment of criminal proceedings against the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that initially, the law enforcing agency, based on the information given by the defacto complainant, had filed a case under Sections 341, 294(b), 324 and 506(ii) IPC. Thereafter, the investigating agency scrupulously followed the procedure and conducting proper investigation, had registered the case for the offences under Sections 341, 294(b) and 506(ii) IPC and filed Charge Sheet before the Trial Court. Hence there is no error on the part of the law enforcing agency in registering the case against the petitioner and further, the statement as to the non happening of such incident as made by the learned counsel for the petitioner, is not true. The said incident as alleged by the defacto complainant was happened and the same was examined by the law enforcing agency by examining all independent witnesses, who clearly deposed about the incident on the said date of occurrence and hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. The facts in the present case is not in dispute that due to money dispute, the petitioner attacked the defacto complainant with dire consequences and abused in filthy language, for which, initially the case was registered under Sections 341, 294(b), 324 and 506(ii) IPC. However, after due and proper investigation, since the investigation revealed that there was no injury sustained by the defacto complainant, the law enforcing agency has rightly registered the case for the offences under Sections 341, 294(b) and 506(ii) IPC, by deleting the offence under Section 324 IPC and the same has been done by the respondent Police, after verification of all relevant materials and examination of independent witnesses recorded by the police at the time of investigation and therefore there is no error in the conduct of the law enforcing agency in registering the case, based on the complaint of the defacto complainant and filing Charge Sheet before the Trial Court. The other grounds raised by the counsel for the petitioner are all factual in nature and it requires

appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

7. For the reasons aforesaid, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
B-1, North Beach Police Station,
Chennai 600 001.
2. The Public Prosecutor,
Madras High Court.

CRL.O.P.No.26806 of 2018

RLD(CO)
RGA(22/11/2021)