



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

Crl.O.P. (MD) No.10351 of 2021

CRL.M.P. (MD) .No.5286 & 5287 of 2021

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Arul Selvan

... Petitioner/Accused NO.7

vs.

1.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.
Crime No.106 of 2016.

... 1st Respondent/Complainant

2.Chellanadar

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Charge Sheet in C.C.No.60 of 2020 on the file of the learned Judicial Magistrate, Eraniel and quash the same as illegal in respect of the petitioner.

For Petitioner	: Mr.C.Antoprince for Mr.N.Jamzeer Ali
For R-1	: Mr.K.Sanjai Gandhi Government Advocate
For R-2	: Mr.M.S.Jeyakarthik

O R D E R

This petition has been filed to call for the records pertaining to the Charge Sheet in C.C.No.60 of 2020 on the file of the learned Judicial Magistrate, Eraniel and quash the same as illegal in respect of the petitioner.

2.The case of the prosecution in brief is that on 17.06.2016 at about 11.30 p.m., a temple festival in Parappattru Sri Janarthana Krishnar was going on. During that time, the accused Nos.1 to 13 caused disturbance for conducting the function. When it was questioned by the temple administration, the accused persons assaulted the defacto complainant and caused simply injury to him. They have abused him in filthy language and damaged 13 tube lights which is worth about Rs.800/-. On the basis of the complaint given by the defacto complainant, investigation was undertaken by registering the F.I.R and the final report was also filed against this petitioner and others.

3.Seeking quashment of the charge sheet, the petitioner has filed this petition mainly on the ground that there are contradictory statements by the defacto complainant with regard to



the occurrence and also the medical expert is also not supporting the case of the prosecution. No *prima facie* case has also been made out. There was only wordy quarrel between the accused and the temple administration. Except that, nothing happened as stated in the complaint and the final report.

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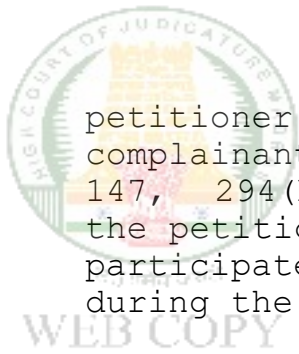
4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

5. From the arguments advanced by the learned counsel for the petitioner as well as the learned Additional Public Prosecutor, it is seen that a disturbance has been made by the accused persons, when orchestra was going on in the temple festival. Further, there was a dispute between the former and newly elected office bearers of the temple administration. On the previous occasion, because of the above said dispute, a complaint was given by the defacto complainant which ended in compromise between the parties. Later, when orchestra was playing on 17.06.2016, this petitioner alleged to have caused disturbance and damaged tube lights and caused injuries to the defacto complainant also.

6. In the complaint, there is a specific allegation against this petitioner to the effect that the petitioner along with other accused persons assaulted the defacto complainant and caused injuries to him.

7. However, the learned counsel for the petitioner would submit that there are contradictory statements that have been given by the defacto complainant during 161 Cr.P.C statement and before the Medical Officer, who examined the defacto complainant. He would further submit that the five injured persons alleged to have stated before the Medical Officer that they were assaulted by fifteen known persons with hands and sticks and all the injured persons were admitted in the hospital and discharged. The nature of injuries was found to be simple. A specific allegation made against this petitioner is that he joined with the accused persons, assaulted the defacto complainant. During the course of 161 Cr.P.C. statement also, they have stated the same thing also.

8. From the records, it is also seen that they have damaged 13 tube lights which worth about Rs.800/-. Observation Mahazaar prepared by the Investigating Officer shows that the damaged Tubelights particles were also found in the place of the occurrence. Hence, there is a *prima facie* material to show that injury was caused to the injured persons, the injured persons admitted in the hospital and later, discharged. The tube lights have also been damaged during the occurrence.. When the *prima facie* materials are available and the veracity of the statements recorded under Section 161 Cr.P.C can be tested only during the trial Process, I find no



petitioner regarding the contradictory statement of the defacto complainant before the Doctor. Similarly, the argument that Sections 147, 294(b), 323, 506(ii) and 427 of IPC are not attracted against the petitioner is without any basis. Whether the petitioner actually participated in the assault and damaged tubelights can be found only during the course of trial.

9. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,
Eraniel,
Kanyakumari District.
- 2.The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SANGEETHA, Advocate (SR-29709[F] dated 21/09/2021)

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-29553[F] dated 20/09/2021)

CrI.O.P. (MD)No.10351 of 2021
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RS (01.10.2021) 3P 6C