



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.04.2021  
DELIVERED ON : 21.05.2021

CORAM:

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Cr1.OP(MD)No.16368 of 2017 &  
Cr1.MP(MD)No.10868 of 2017

N.Chandran

... Petitioner

Versus

1.The State Represented through,  
The Deputy Superintendent of Police,  
Alangulam,  
Tirunelveli District.

2.The Inspector of Police,  
Pavoorchathiram Police Station,  
Tirunelveli District.

3.Gunasekaran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.34 of 2017 on the file of the learned Judicial Magistrate, Tenkasi, Tirunelveli District and quash the same as against this petitioner.

For Petitioners : Mr.J.Karthik

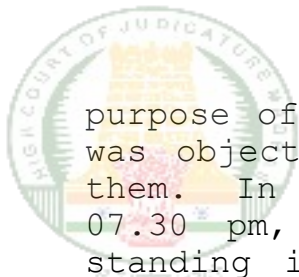
For R1 & R2 : Mr.M.Ganesan,  
Additional Public Prosecutor

For R3 : No appearance.

#### O R D E R

This petition is filed seeking quashment of CC.No.34 of 2017 on the file of the learned Judicial Magistrate, Tenkasi, Tirunelveli District.

2. The case of the prosecution before the trial court is that the third respondent is the defacto complainant. He lodged a complaint with the second respondent herein with the following allegations. A property dispute exists between him and his uncles Thangarasa Nadar and Thangaiya Nadar. The property was lying on the western side of the house of the third respondent / defacto complainant. Two years prior to the date of occurrence, for the



purpose of bringing drinking water connection, sand was dug, which was objected by the above said persons and it was also closed by them. In pursuance of the previous enmity, on 28.05.2015, at about 07.30 pm, when the third respondent / defacto complainant was standing in front of his house in street light area, the first accused with Aruval, second accused with stick, third accused with brick and fourth accused with stick came to the place of occurrence along with the fifth accused and they abused him in filthy language. The first accused namely, Siam Daniel Raj assaulted him with Aruval, due to which, the third respondent / defacto complainant sustained injury on the left side of the head. The second accused assaulted him with stick on various parts of the body and the third respondent / defacto complainant sustained injuries on the shoulder and right forehead. The third accused assaulted him with brick on the lateral chest region. The fourth accused hit him with stick and the third respondent / defacto complainant sustained injury on the right eye region. Deepan assaulted him with his legs and the third respondent / defacto complainant sustained various injuries.

3. Based upon the complaint, a case in Crime No.178 of 2015 under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC was registered on 29.05.2015. The second respondent conducted investigation, recorded statement of witnesses and finally filed the final report before the concerned court and during the course of investigation, it was found that only three accused persons were involved in the occurrence namely, Arul Sathiya Selval, Bharath and Deepan. The other two accused persons namely Chandran and Siam Daniel Raj were found not to be involved in the occurrence. So their names were deleted from the final report. The learned Judicial Magistrate, after going through the final report and after hearing the defacto complainant, directed the first respondent herein to make re-investigation and file a final report.

4. In pursuant to which, the first respondent conducted re-investigation. After recording the statement of witnesses and collecting materials, the first respondent filed a final report before the concerned court stating that all the five accused persons are involved in the occurrence and so offence under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC have been committed by all the accused persons and accordingly, filed the final report. It was also taken on file.

5. Seeking quashment of this final report, the petitioner who is the second accused before the trial court has filed this petition mainly on the ground that he was not involved in the occurrence as he was taking treatment for Pile Ailment in the Hospital on the date of occurrence and his further contention is that the first



respondent did not conduct the re-investigation properly and without going into the materials, simply filed the final report by including the name of this petitioner and another accused in the final report.

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6. Heard both sides.

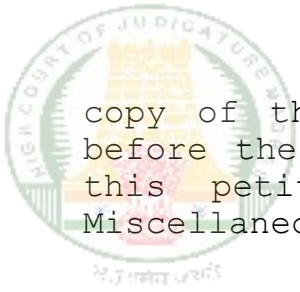
7. Regarding the first ground, the petitioner would rely upon a copy of the Medical Certificate issued by Dr.M.V.Muraleedharan, Assitant Medical Officer, Ayurvedic Wing and Panchakarma Clinic, Government Medical College Hospital, Tuticorin, wherein, it is stated that this petitioner suffered from Piles and so, undergone treatment on 23.05.2015 and he was advised to take complete rest from 23.05.2015 to 30.05.2015 and not to travel. He has also produced the outpatient receipt dated 23.05.2015. This document can be taken into account only during the course of trial, because, the document is not an admitted document. Moreover, as per the First Information Report, date of occurrence is stated to be 28.05.2015. A specific allegation has been made against this petitioner that he was also involved in the occurrence and assaulted the third respondent / defacto complainant with stick. But date of treatment is given as 23.05.2015. Moreover, it is not stated that he was taking treatment in the Hospital as inpatient on the date of the occurrence, ie., on 28.05.2015. So, this document cannot be taken into account, at this stage for the purpose of finding that the petitioner was not involved in the occurrence as mentioned in the First Information Report as well as in the final report.

8. The next point is that re-investigation was not properly done. But this aspect cannot be taken into at this stage. It is also a matter for proper trial. So, I am of the considered view that none of the points raised by this petitioner are sufficient enough to quash the final report filed against this petitioner. So, the trial is necessary in order to arrive at a logical conclusion.

9. The learned counsel for the petitioner submits that the petitioner is aged 75 years and undergoing piles treatment. Therefore, he prayed for dispensing with the personal appearance of the petitioner.

10. Considering the age of the petitioner, taking into consideration the request of the learned counsel for the petitioner, the personal appearance of the petitioner alone before the trial court is dispensed with on condition that he must appear before the trial court within a period of 15 days from the date of receipt of a

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copy of this order, and file an undertaking that he will appear before the court as and when required. With the above direction, this petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mbi  
To

1.The Deputy Superintendent of Police,  
Alangulam,  
Tirunelveli District.

2.The Inspector of Police,  
Pavoorchathiram Police Station,  
Tirunelveli District.

+1 CC to M/s.R.J.KARTHICK, Advocate ( SR-18604[F] dated 24/05/2021 )

Order in  
Cr1.OP(MD)No.16368 of 2017 &  
Cr1.MP(MD)No.10868 of 2017

21.05.2021

CN(15.06.2021)4P 4C