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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM

THE HONOURABLE THIRU JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.20440 of 2015 and 24098 of 2016
and M.P.No.1 of 2015 and Crl.M.P.No.11458 of 2016

B.Jaikumar ... Petitioner in Crl.O.P No.20440 of 2015 &
2nd respondent in Crl.OP No.24098 of 2016

Raja Sudhakar ... Petitioner in Crl.O.P.No.24098 of 2016 &
2nd respondent in Crl.OP.No.20440 of 2015

vs

The State

Rep by Sub Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.

... 1st respondent in both the petitions

Prayer in Crl.O.P.No.20440 of 2015:

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records and quash the proceedings in CC No. 9410/2014 dated 23.07.2014 on the file of the V Metropolitan Magistrate Egmore Chennai - 8 for offences under Sections 294 (b) 323, 341 and 506(I) IPC as against the petitioner.

Prayer in Crl.O.P No.24098 of 2016:

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records and quash the proceedings in CC.4619/2011 on the file of the V Metropolitan Magistrate, Egmore, Chennai-8.

For Petitioner in Crl.O.P. : Mr.G.Thyagarajan
No.20440/2015
& R.2 in Crl.O.P.No.24098
of 2016



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For petitioner in Crl.O.P
24098 of 2016 and
R-2 in Crl.O.P No.20440 of 2016 : No appearance

For 1st respondent in : Mr.R.Murthi
both the petitions Govt. Advocate (Crl.Side)

COMMON ORDER

These petitions are filed to quash the proceedings pending in C.C.Nos. 9410 of 2014 and 4619 of 2011 on the file of V Metropolitan Magistrate, Egmore, Chennai.

Crl.O.P.No.20440 of 2015

This case came to be registered on the basis of the complaint given by one B.Raja Sudhakar, the second respondent herein. It is alleged in the complaint that the petitioner and the second respondent are brothers. They have engaged in several business activities and there is a dispute between them with regard to holding of shares. It is also alleged that the petitioner refused to give shares of the second respondent, despite several negotiations conducted in the presence of close relatives. In order to resolve the disputes between them, a compromise talk was arranged in their sister's house at Anna Nagar, Chennai on 04.09.2011 at about 3.00 p.m. The petitioner came to his sister's house for negotiation. The second respondent demanded his share and there was a quarrel between them. The petitioner pushed the second respondent on the floor and caused injuries, as a result, the second respondent sustained simple injuries. On 30.12.2013, the petitioner made criminal intimidation against him and his family members. Therefore, the second respondent has preferred a complaint.

2. On the basis of the complaint, a case was registered in Cr.No.2784 of 2013 for the offence punishable under sections 341, 294(b), 323 and 506(ii) IPC and after completing investigation, the investigating officer filed final report against the petitioner.

3. The learned V Metropolitan Magistrate, Egmore, Chennai had taken cognizance of the case in C.C.No.9410 of 2014. Challenging the order taking cognizance of the case, the present petition has been filed to quash the same.



4. Learned counsel for the petitioner submits that the complaint was preferred after two years of the occurrence and this complaint is given as a counter blast. The investigating officer in this case, after registering the case, examined all the witnesses on the same day, completed the investigation and filed the final report. Learned counsel submits that the investigating officer has not examined the material witness viz., the petitioner's sister. There is no merit in the prosecution case against the petitioner. Thus, the proceedings pending against the petitioner have to be quashed.

5. Heard the learned Government Advocate (Crl.Side) and he submits that the investigating officer, after recording the statement and finding that prima facie case has been made out against the petitioner filed final report against the petitioner for the offence punishable under sections 341, 294(b), 323 and 506(ii) IPC. He further submits that there are enough materials available to proceed further with the trial of the case. Therefore, he pleads for dismissal of the petition.

6. I have considered the rival submissions and also perused the materials available on record.

7. On perusal of the statement of witnesses along with final report, it appears that the investigating officer had examined witness Nos.1 to 5, who are the eyewitness to the occurrence. Witnesses No.6 and 7 speak about the observation mahazar and rough sketch. The evidence of the de-facto complainant/second respondent speaks about the incident that had happened on 04.09.2011 and the complaint given on 30.12.2013. The eyewitnesses had also given statement corroborating the statement of the second respondent with regard to the incident that had happened on 04.09.211.

8. As per the statements of the eyewitnesses, it is clear that the petitioner attacked the second respondent and caused simple injuries to him. It is specifically alleged that apart from the incident on 04.09.2011, petitioner is said to have made criminal intimidation against the second respondent and his family members on 30.12.2013.



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9. The truth or falsity of the allegations made on the basis of the complaint and statement of witnesses have to be considered during the course of trial and this Court cannot go into the merits of the allegations and quash the petition.

10. Therefore, Crl.O.P.No.20440 of 2015 is dismissed.

Crl.O.P.No.24098 of 2016:

11. In spite of several opportunities given, there is no representation for the petitioner. Even on 28.02.2022, when the matter was taken up, there was no representation for the petitioner and therefore the matter was directed to be listed today under the caption "for dismissal".

12. Even today, there is no representation for the petitioner. Therefore, it can now be inferred that the petitioner is not interested to prosecute the petition. Accordingly, Crl.O.P.No.24098 of 2016 is dismissed for non-prosecution.

Consequently, connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

sr
To

1.The V Metropolitan Magistrate,
Egmore, Chennai.

2.The Sub Inspector of Police,
K-4 Anna Nagar Police Station,
Chennai-40.

3.The Public Prosecutor,
High Court, Madras-104.

Crl.O.P.Nos.20440 of 2015 & 24098 of 2016

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srg 17/03/2022