



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.8822 OF 2019

AND

CRL.M.P.NO.4663 OF 2019

1.Malar @ Malarvizhi
2.Rajasekar
3.Archana
4.Shobana
5.Vishwanathan

...Petitioners

Vs.

1.State represented by
The Inspector of Police
Kalambur Police Station
Kalambur
Thiruvannamalai District
Crime No.338 of 2017.

2.Dhanapakkiyam

...Respondents

PRAYER : Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the First Information Report in Crime No.338 of 2017 dated 03.07.2017 pending investigation on the file of the first Respondent Police, quash the same.

For Petitioners : A.Balamurugan

For Respondents : Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)

ORDER

This petition had been filed to call for the records pertaining to the First Information Report in Crime No.338 of 2017 dated 03.07.2017 pending investigation on the file of the first Respondent Police and quash the same.

2. The learned Counsel for the Petitioners submitted that the first Petitioner herein, Malar @ Malarvizhi had been arrayed as first Accused in Crime No.338 of 2017. The Complainant is the

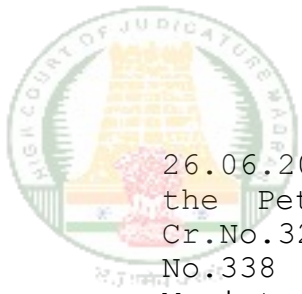


second Respondent herein, viz., Dhanapakkiyam, who is none other than the aged mother of the first Petitioner herein. Actually, the second Respondent and others in the family members of the Petitioners had caused injury on the first Petitioner, wherein she underwent treatment in the Government Hospital, and wound certificate as is available in the typed set of papers. At that time of admission in the Government Hospital, she mentioned the names of 1) Maharani, 2) Sivagami, 3) Santhakumar S/o.Ananthan 4) Saranya, D/o.Ananthan, 5)Dhanapakkiyan and 6) Thesingu, S/o.Ranga Gounder, as Accused, who are all relatives to the Defacto complainant and the Petitioners herein. The First Information Report was registered in Crime No.328 of 2017 by the Kalambur Police Station, Tiruvannamalai on 26.06.2017 under Sections 147, 294(b), 355, 323 and 506(ii) IPC. Subsequent to the Registration of the First Information Report in Crime No.328 of 2017, the mother of the Petitioner had preferred a complaint on 03.07.2017 in Crime No.338 of 2017, as a counter blast. The said FIR was filed on 03.07.2017 although the occurrence had taken place on 28.06.2017, wherein the first Petitioner herein, Malar @ Malarvizhi her husband Rajamoorthy, her sons and daughters has been arrayed as Accused, who are the Petitioners herein. Therefore, the said FIR in Crime No.338 of 2017 is an afterthought and the same may be quashed.

3. The learned Government Advocate (Crl.Side) submitted that the First Information Report in Crime No.328 of 2017 was registered on the basis of the complaint of the first Petitioner/Malar @ Malarvizhi. Since at that time of admission in Crl.O.P.No.8822 of 2019, an interim stay was granted, though the investigation proceeded, the final report was not filed in Crime No.338 of 2017. Further, the learned Government Advocate (Crl.Side) vehemently objects to quash the First Information Report in Crime No.338 of 2017 since a case and a counter were filed and the Investigation had been proceeded.

4. On perusal of records, it is seen that on the complaint of the first Petitioner herein, FIR in Crime No.328 of 2017 was registered against the second Respondent and others on 26.06.2017. Subsequently, as a counter blast, the second Respondent herein made a complaint on 03.07.2017 and First Information Report in Crime No.338 of 2017 came to be registered for the occurrence that is said to have taken place on 03.07.2017. Therefore, the submission of the learned Counsel for the Petitioners that it is case as an afterthought and as counter blast to harass the Petitioners, is found justified.

5. This is not the case where two FIRs were filed on the same day. In the case on hand, FIR in Crime No.338 of 2017 was registered after the First Information Report in Crime No.328 of 2017 was registered, with a delay of 7 days of occurrence on



26.06.2017. Therefore, as pointed out by the learned Counsel for the Petitioner it is a counter blast case to the FIR in Cr.No.328 of 2017. Therefore, subsequent FIR registered in Crime No.338 of 2017 is quashed. Further, the learned Judicial Magistrate, Arani is directed to proceed with the trial in the case based on the final report in Crime No.328 of 2017 and dispose of the case at the earliest.

6. With the above directions, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

dna

To

1.The Judicial Magistrate, Arani.

2.The Inspector of Police
Kalambur Police Station
Kalambur
Thiruvannamalai District
Crime No.338 of 2017.

3.The Public Prosecutor
High Court, Madras.

+1cc to Mr.A.Balamurugan, Advocate Sr.No.25374

Cr1.O.P.No.8822 of 2019
and
Cr1.M.P.No.4663 of 2019

SR(CO)
RVM(15/06/2022)