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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRIMINAL ORIGINAL PETITION NO.15386 OF 2020

&

CRL.M.P.NOS.5854 & 5855 OF 2020

1. Gowthaman

2. Nandhakumar

... Petitioners/Accused
1 & 2

/Versus/

1. The State Rep. by,
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
(Crime No.2053/2020)

2. Dharmalingam
S/o.Narayanasamy

... Respondents

R2 is impleaded as per order in Crl.M.P.No.6628 of 2020 in Crl.M.P.No.5854 of 2020, 5855 of 2020 and O.P.No.15386 of 2020 dated 29.10.2020.

PRAYER:-

This Criminal Original Petition is filed under Section 482 of Cr.P.C., pleaded to quash the proceedings in S.C.No.57 of 2021 on the file of the Chief Judicial Magistrate Court, Thiruvarur.

For Petitioner : Mr.R.Rajaratnam

For R1 : Mr.S.Santhosh
Government Advocate
(Criminal Side)

For R2 : No Appearance



O R D E R

Heard the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.Side) for the respondent.

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2. It is a case where the charge has been altered by adding Section 326 & 307 of I.P.C. The alteration report though dated 13.07.2020 which is also the date of registration of F.I.R., it has reached the Judicial Magistrate only on 21.08.2020. The Learned Counsel for the petitioner would submit that, there is no ingredient in the material relied by the prosecution to attract Section 326 & 307 of I.P.C. Further, Learned Counsel submit that, by keeping the petitioner in dark about the alteration of charges, his right to effectively defend the case has lost. Presently the case has been committal to the Court of Sessions and made over to the Chief Judicial Magistrate, Thiruvarur. While pending quash petition, the Committal Court has taken the matter on file in S.C.No.57 of 2021 and framed charges including Section 326 and 307 of I.P.C since there is no ingredient for these offence same has to be quashed.

3. Further, the Learned Counsel for the petitioner would submit that, opportunity should be given to the petitioner to establish no ingredient available on record to frame charges for these offences. Despite informing the trial Court about the pendency of the quash petition, the trial Court has framed charges for offences under Section 326 & 307 of I.P.C., since there was no stay.

4. On going through the records and the submissions made by the petitioners and the counter filed by the prosecution, this Court finds that, the Investigating Officer after considering the statement of witnesses, had thought fit offences under Section 326 & 307 of I.P.C also made out since there is prima facie material to frame charges for these offences.

5. This Court, on considering the facts that, the alleged incident occurred on 13.07.2020. The final report filed on 05.08.2020. Even on the date of F.I.R, prosecution states that, charges were altered by adding Section 326 and 307 of I.P.C. However, from the Court record, it is obviously clear that, the alteration report reached the Magistrate only on 21.08.2020. The petition to quash is filed on 24.09.2020. Apart from the averments made by the Learned Counsel for the petitioner that the alteration charges was not informed to the accused persons, the fact remains that, the evidence collected prima facie had satisfied the Investigating Officer to alter the charges and charges are also been framed.



6. Before framing the charges, the petitioner ought to have sought for discharge, which they have not exercised. On 19.08.2021, the Trial Court had adjourned the matter to 25.08.2021 for framing charges and on 25.08.2021 charges were framed and read over to the accused. Since, petition for quash was filed. The petitioners have not exercised their right to file discharge petition before 25.08.2021, the date on which charges framed.

7. As far as quash petition is concerned, this Court finds that, the Investigating Officer has found prima facie material to frame charges under Section 326 & 307 of I.P.C., The documents relied also provides material ingredients to frame charges under Section 326 & 307 of I.P.C. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Chief Judicial Magistrate Court,
Thiruvarur.
2. The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.
3. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.S.Sivakumar, Advocate, S.R.No.26724

CRL.O.P.NO.15386 OF 2020

AJS (CO)
PBS/27/04/2022