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CrI.O.P.No.25302 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.25302 of 2022 &
CrI.M.P.No.15751 of 2022

S. Vijay

...

Petitioner

/vs/

1. The Inspector of Police,
J-5 Police Station, Sastri Nagar,
Adyar, Chennai 600 010
(Crime No.521 of 2021)

2. V. Nagaraj

...

Respondents

Prayer : Criminal Original Petition filed under section 482 of Cr.P.C.,
praying to call for the records and quash the same in Charge Sheet
C.C.No.4310 of 2021 pending before the IX Metropolitan Magistrate Court
at Saidapet.

For Petitioner

... M/s.P.Sarvalogasundari

For Respondents

... Mr.S. Santhosh, GA (crl.side)-R1



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the same in Charge Sheet C.C.No.4310 of 2022 pending before the IX Metropolitan Magistrate Court at Saidapet, Chennai.

2. The learned counsel appearing for the petitioner submitted that the petitioner is the third accused in C.C.No.4310 of 2021. There is a money dispute between the defacto complainant and A1 and the petitioner is the friend of defacto complainant's friend. On 31.08.2021, when the petitioner is trying to settle the matter, the defacto complainant falsely gave a complaint as though this petitioner /A3 with the help of other accused, kidnapped him and assaulted him. She would further submit that while the defacto complainant was examined by a Doctor, he found that the defacto complainant had sustained only simple injuries and not grievous injuries, thus it could be seen that if the allegation that the defacto complainant was assaulted by all the accused simultaneously is true, naturally the defacto complainant would sustain grievous injuries, but he had sustained only simple injuries, which proves that the case has been falsely foisted against



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the petitioner and other accused by the defacto complainant with an ulterior motive, in order to escape from paying Rs.10 lakhs to A1, thus, she prayed to quash the C.C.No.4310 of 2022 on the file of IX Metropolitan Magistrate Court at Saidapet.

3. The learned Govt. Advocate (Crl.side) appearing for the respondent police submitted that in this case, the trial was commenced and the prosecution witnesses viz., PW1 to 3 were examined in chief and the case is posted for cross examination on 28.10.2022 before the trial court.

4. I have considered the submissions of the learned counsel appearing for the petitioner and the learned Govt. Advocate (crl.side) appearing for the respondent police and perused the materials available on record.

5. Perusal of records reveal that the petitioner is ranked as A3 in C.C.No.4310 of 2021 pending on the file of IX Metropolitan Magistrate Court at Saidapet, Chennai and the petitioner is prosecuted by the respondent police along with seven other persons for the offences punishable



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under sections 147, 149, 341, 294(b), 323, 365 and 506(ii) IPC. It is alleged that in order to recover the amount of Rs.10 lakhs which was borrowed by the defacto complainant from A1, the petitioner/A3 along with other accused kidnapped the defacto complainant by wrong fully restraining him and took him in their car on 31.08.2021 at about 10.29 a.m and the said car was driven by the petitioner /A3 and thereafter they assaulted him in the car and inflicted injuries on him; further they have also criminally intimidated him with dire consequences, therefore, the A3/petitioner along with other accused are prosecuted now.

6. Admittedly, prosecution witnesses PW1 to PW3 were examined in chief before the trial court and the case is posted for cross examination. The learned counsel for the petitioner raised a factual dispute with regard to injury sustained by the defacto complainant as well as money transactions. This Court is of the opinion that the factual disputes raised by the petitioner has to be elicited before the trial court during the course of trial by examining the witnesses and relevant materials and for arriving at a proper adjudication, the trial has to be necessarily conducted. Moreover, before



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the trial court, the witnesses PW1 to PW3 were examined in chief and the case has been posted for cross examination. At this juncture, it is inappropriate to quash the criminal proceedings as the trial has to be completed in order to find out the real facts. Therefore, this court does not find any merits in this petition. Hence this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

19.10.2022

msr

Index:yes/no

Internet:yes/no

To

1. The Inspector of Police,
J-5 Police Station, Sastri Nagar,
Adyar, Chennai 600 010

2.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM ,J.

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