



CRL.O.P.No.19415 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P.No.19415 of 2019

1.Kamalakannan
2.Jagadeesan
3.Anbukathiravan
4.Venkatesan

.. Petitioners / accused 1 to 3 & 5

Versus

1.The State rep by
The Station House Officer
Vaniyambadi Taluk Police Station,
Vellore District.

... Respondent/complainant

2.Jothiramalingam

... Respondent /*Defacto*
complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call of the records in FIR. In Crime No. 90 of 2017 dated 04.03.2017 on the file of the first respondent police and quash the same.

For Petitioners : Mr.Dayalan.D



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For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor
For Respondent-2 : Mr.G.Vinothkumar

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ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No. 90 of 2017 dated 04.03.2017 on the file of the first respondent police.

2. The petitioners are ranked as Accused Nos.1, 2, 3 & 5 in Crime No.90/2017 on the file of the first respondent police. The second respondent / *defacto* complainant had filed a petition before the learned Judicial Magistrate, Vanniyampaddi, Vellore under Section 156(3) Cr.P.C to register the FIR. Even prior to the said complaint the second respondent had given a complaint, for the same occurrence but no action has been taken. Only consequent to that, the petition under Section 156(3) has been filed and on which, the learned Judicial Magistrate passed an order to register the First Information Report. Accordingly, the First Information Report has been registered in Cr.No.90/2017 for the offences under Sections 120(b), 294(b), 324,



327, 331, 338, 347, 362,379, 390,506(ii) and 307 IPC.

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3.The learned counsel for the petitioners submitted that there is a delay in lodging the complaint; the accused and the defacto complainant are close relatives and they have some civil disputes between themselves; only in view of the above said motive, the complaint has been given. It is further submitted that on the earlier complaint given by the second respondent an enquiry has been conducted in CSR.No.463/2016 and the matter was closed on 12.09.2016 as 'civil in nature'. Since the matter is civil in nature the First Information Report should be quashed.

4.The records would show that the *defacto* complainant was allured by the accused that they would negotiate and amicably settle all the disputes between themselves and they had taken him to a place called Peenya at Bangalore in a car. But on the way itself, the accused had started to attack the *defacto* complainant severely. There are ingredients in the complaint as against each of the petitioners and there is a detailed account of their overtact in the occurrence.



5. The ingredients in the complaint would show that they have got enough details about how the petitioners had tortured the *defacto* complainant after having taking him in a car. But, for the reasons best known to the 1st respondent, the earlier complaint in this regard was closed on the advice that the parties should seek remedy. Though the *defacto* complainant has himself stated that there are certain civil disputes between him and the petitioners, they could work out their remedy only in connection with those disputes.

6. But so far as this case is concerned, there are enough materials available on record to make out the offences against the accused on various penal provisions. Unless a detailed investigation is allowed to be done all the real facts would not come to light. This is not a case which does not disclose any *prima facie* case.

7. Since the petitioners and *defacto* complainant before the 1st respondent police was not dealt the matter properly and no action has been taken, the petitioners had rightly chosen to file the petition under Section 156(3). The learned Magistrate after perusing the records got



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convinced that there is a scope for registering a case and ordered so by issuing direction. There are more than enough materials available on record to make out a *prima facie* case against the petitioners for the offences under Sections 120(b),294(b),324,327,331,338, 347, 362,379, 390, 506(ii) and 307 IPC.

8. In view of the above stated reasons, I feel the investigation should be allowed to go and the first respondent police is directed to complete the investigation and file the final report as expeditiously as possible.

Accordingly, this Criminal Original Petition stands **dismissed**.

07.12.2022

Index: Yes/No
jrs

To:

1.The Station House Officer
Vaniyambadi Taluk Police Station,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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