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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.21192 OF 2019

AND

CRL.M.P.NOS.10981 & 9528 OF 2019

1. Mano @ Manoranjith

2. V.Asokan

3. Mercy Florence

... Petitioners

Versus

1. The State Rep by:
The Inspector of Police,
V5-Thirumangalam Police station,
Chennai.
(Cr.No. 17 of 2019)

2. Revathi

... Respondents

PRAYER:-

This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for entire records in connection with C.C.No.3469/2019 pending on the file of Learned XIII Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners : Mr.S.Manuraj

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

Mr.N.Shreedhar
For R2



O R D E R

This Criminal Original Petition has been filed to call for entire records in connection with C.C.No.3469/2019 pending on the file of Learned XIII Metropolitan Magistrate, Egmore, Chennai and quash the same.

2. The learned counsel for the petitioners submitted that, on the same occurrence, there had been a complaint and a counter complaint. Based on which, two CSR's was registered by the V-5 Thirumangalam Police in CSR No.61 of 2019 and CSR No.65 of 2019. It is the case of the learned counsel for the petitioners that the CSR No.61 of 2019 was converted as First Information Report, in which investigation proceeded resulting in laying of the final report. The learned XIII Metropolitan Magistrate, Egmore, Chennai had taken cognizance and numbered it as C.C.No.3469 of 2019. Therefore, the petition in Crl.O.P.No.21192 of 2019 has been filed seeking to quash the charge sheet.

3. The learned counsel for the 2nd respondent/defacto complainant vehemently objects to the line of argument of the learned counsel for the petitioners stating that, on the plain reading of the complaint in CSR No.65 of 2019, it is found that on the date of occurrence they had kidnapped a woman. When the CSR on the basis of the 2nd respondent/defacto complainant was converted as First Information Report, wantonly the offence under Section kidnap was deleted. Therefore, it is submitted by the learned counsel for the 2nd respondent/defacto complainant that the respondent police were hand in glove with the petitioners herein. He also submitted that the complaint proceeds as though the petitioners herein went all way to the Anna Nagar Police Station to lodge a complaint, when the occurrence had taken place within the local limits of the Thirumangalam Police Station what is the necessity for the petitioners to proceed all the way up to the Anna Nagar Police station. He further submitted that though the 2nd respondent/defacto complainant had furnished all the relevant materials including the video coverage, the Investigating Officer had refused to accept it and the First Information Report was registered deleting the offence under Section kidnapping of Indian Penal Code. When the defacto complainant raised his objections in deleting the section for Kidnap, the reply of the Investigating Officer was that if at all kidnap has to be registered, the defacto complainant has to prefer the complaint before the All Women Police Station, Thirumangalam. He further submitted that the 2nd respondent/defacto complainant had suffered injuries, under took treatment and those materials were



also not considered by the Investigating Officer while laying the final report. Therefore, he vehemently objects to quashing the charge sheet stating that the petitioner had influenced the Investigating Officer and the Investigating Officer is in collusion with the petitioners, and all the points raised by the learned counsel for the petitioners are subjected to trial before the learned XIII Metropolitan Magistrate, Egmore, Chennai.

4. The learned Government Advocate (crl.side) submitted that both the CSR's were registered under the same Thirumangalam Police Station, Anna Nagar district. He further submitted that the complaint given by the petitioners in CrI.O.P.No.21192 of 2019 even though registered in CSR No.65 of 2019 was enquired by the police, since there was no sufficient materials, they did not register the First Information Report. He further submitted that the defacto complainant's complaint had been considered and investigation had proceeded.

5. The learned counsel for the petitioners objects to the line of argument of the learned Government Advocate (crl.side) stating that the respondent police had referred the CSR No.65 of 2019. He further submits that he had downloaded the status of the CSR No.65 of 2019 wherein it is referred as "FIR/case registered".

6. Considering the submissions made by the learned counsel for the petitioners, learned counsel for the 2nd respondent/defacto complainant and the learned Government Advocate (crl.side), it is found that the respondent police had proceeded with the investigation and laid the charge sheet in C.C.No.3469 of 2019 in continuation of the complaint of the 2nd respondent/defacto complainant herein. Further, as per the status of CSR No.65 of 2019 submitted by the learned counsel for the petitioners, the petitioners CSR had been converted as First Information Report and pending. In the light of the above circumstances, when there is a case and counter with charge sheet already filed and other is under investigation, this Court cannot exercise the discretion under Section 482 Cr.P.C and quash the FIR. It is for the learned XIII Metropolitan Magistrate, Egmore, Chennai to consider during the trial regarding the defence taken by the respective parties, in the case given as per the earlier rulings of the High Court.



7. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
V5-Thirumangalam Police station,
Chennai.
2. The XIII Metropolitan Magistrate,
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.S.Manuraj, Advocate, S.R.No.26307

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.25643

CRL.O.P.NO.21192 OF 2019 AND
CRL.M.P.NOS.10981 & 9528 OF 2019

PM(CO)
PBS/26/04/2022