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CRL.O.P.No.23308 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

THE HONOURABLE MR JUSTICE V.SIVAGNANAM

CRL.O.P.No.23308 of 2022

and

CrI.M.P.No.14890 of 2022

Velliangiri

... Petitioner

Vs.

1.The State Represented by
The Inspector of Police,
Cheyur Police Station,
Tiruppur.

2.Nagammal

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the final report in C.C.No.193 of 2020 on the file of the Court of Judicial Magistrate-II, Avinashi and quash the same with respect to the petitioner.

For Petitioner : Ms.Dharani Subramanian

For Respondents :

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to call for the entire records pertaining to the final report in C.C.No.193 of 2020 on the file of the Court of Judicial Magistrate-II, Avinashi and to quash the same.

2. The learned counsel for the petitioner submitted that the complainant and the petitioner are mother and son. The dispute is with regard to the partition of the family property. According to the prosecution, on 17.09.2019 at about 8.00 a.m., the petitioner/accused went to the house of his mother and abused her and also assaulted with dangerous weapon namely Aruval and thereby causing simple injuries and also threatened with criminal intimidation.

3. The learned counsel for the petitioner further submitted that in the statement of second respondent/defacto complainant, she has not stated that she was assaulted and abused by her son in public place and no document has been filed to show that the second respondent/defacto complainant has sustained injuries and no medical certificate has been produced by the second respondent/defacto complainant. Further, there



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is no evidence and no offence has been made out against the petitioner/accused. Therefore, the criminal proceedings pending against the petitioner/accused in C.C.No.193 of 2020 on the file of the Court of Judicial Magistrate-II, Avinashi, has to be quashed and this Criminal Original Petition be allowed.

4. The learned Additional Public Prosecutor for the first respondent objected to quash the proceedings against the petitioner/accused and further submitted that there is a specific overtact attributed by the second respondent/complainant and also in the 161 statement, it is noticed that the second respondent/defacto complainant has sustained severe injuries that was caused by the dangerous weapon Aruval. Under these circumstances, in order to proper adjudication, the trial has to be continued to find out the truth. Therefore, he prays this Court that the petition be dismissed.

5. Heard both sides. I have perused the materials available on record. I have also considered the facts and circumstances of the case.



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6. The material available on record reveals that the petitioner is an accused in C.C.No.193 of 2020 on the file of the Court of Judicial Magistrate-II, Avinashi.

7. The fact reveals that there is a dispute between the petitioner/accused and the second respondent/defacto complainant. The second respondent/defacto complainant is the mother and on 17.09.2019 at about 8.00 a.m., according to the prosecution, the petitioner/accused went to the house of his mother and abused her with filthy languages and further he assaulted his mother with Aruval and caused injuries on her left hand and thereby she sustained simple injuries and also threatened her with dire consequences. Hence, the petitioner/accused is prosecuted.

8. The learned counsel for the petitioner disputed the facts that there is no Medical Certificate to establish the second respondent/defacto complainant had sustained injuries and further he denied the allegations of threatening.



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9. As per the guidelines issued by the Hon'ble Supreme Court in ***State of Haryana Vs. Ch.BhajanLal (AIR 1992 SC 604), M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA RANI Vs. SURAJ KUMAR & Another (1985 Crl.L.J.817)***, the facts on dispute with regard to the injuries sustained to the second respondent/defacto complainant or not, whether Medical Certificate available with the second respondent/defacto complainant or not, whether the second respondent/defacto complainant assaulted with Aruval or not and the petitioner/accused threatened the second respondent/defacto complainant or not has to be adjudicated after letting in evidence by the prosecution before the Trial Court. Therefore, it does not meet the parameters laid down by the decisions of the Hon'ble Supreme Court in the aforesaid cases (referred to supra), the matter has to be investigated to find out the truth.

10. The factual dispute cannot be adjudicated while exercising powers under Section 482 of Cr.P.C. Therefore, the trial has to be



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continued to find out the truth for proper adjudication. Hence, I find no merits in the present petition.

11. Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected Criminal Miscellaneous Petition is closed.

27.09.2022

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Index : Yes/No
Speaking Order/Non-Speaking Order

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To

- 1.The Inspector of Police,
Cheyur Police Station,
Tiruppur.
- 2.The Court of Judicial Magistrate-II,
Avinashi.
- 3.The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM, J.

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and
CRL.M.P.No.14891 of 2022

27.09.2022
($\frac{1}{2}$)