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IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.20061 of 2017
and
Crl.M.P.No.12086 of 2017

Jegan @ Jegadeeswar

Vs.

... Petitioner

1.The State Rep.by its
The Inspector of Police
Villupuram Town Police Station
Villupuram
Crime No.357 of 2017.
(Amended as per the order of this Court
dated 31.10.2017, made in Crl.M.P.No.
13465 of 2017 in Crl.O.P.No.20061/2017)

2.A.Agamed

... Respondents

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to Crime No.357 of 2017 dated 20.05.2017 on the file of the respondent Police and quash the same.

For Petitioner : Mr.E.C.Ramesh

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor

: Mr.R.Sasi Kumar for R2

ORDER

This petition has been filed to call for the records pertaining to Crime No.357 of 2017 dated 20.05.2017 on the file of the respondent Police and quash the same.

2. The petitioner, who is the accused in Crime No.357 of 2017, has filed this quash petition. The primary ground raised by the petitioner is that in the Accident Register, it was recorded by the Apollo Hospital, Chennai, that the victim Sharukh fell down from a Two wheeler and sustained injury in occipital/frontal area. However, based on the complaint given by



Sharukh's father, a case in Crime No.357 of 2017 dated 20.05.2017 was registered against the petitioner, which is not sustainable.

3. The learned counsel for the defacto complainant submitted that the defacto complainant's son was brutally attacked and he was left in a unconscious state. Immediately, he was rushed to the ESI Hospital and Jipmer Hospital, Pondicherry, as there were not enough facilities, he was admitted in Appollo Hospital, Teynampet, Chennai. They informed him that only after 10 days, the health position of his son would be ascertained. Thereafter, he came to the respondent Police Station and lodged a complaint.

4. The learned Additional Public Prosecutor submits that in this case, investigation completed and charge sheet filed before the Judicial Magistrate No.II, Villupuram in PRC.No.19 of 2022. The case is now posted for appearance of the accused on 07.04.2022. Hence, he prayed that this petition could not be entertained.

5. At this stage, the learned counsel for the petitioner by relying upon the decision of this Court in the case of Periyasamy vs. The Inspector of Police (CrI.O.P.(MD). No.13255 of 2020), wherein the decision of the Hon'ble Apex Court in the case of Anand Kumar Mohatta and Anr. Vs. State (Govt.of NCT of Delhi), Department of Home and Anr. was relied upon, submitted that even if the charge sheet is filed, this Court exercising its inherent powers under Section 482 Cr.P.C. can quash the FIR. He further submitted that even if all the averments set out in the final report are taken as true, if no case is made out against the petitioner, the charge would be quashed. In the case on hand, during the pendency of the quash petition, charge sheet was filed, hence, the FIR can be quashed, consequently the charge sheet.

6. In view of the same, he advanced his arguments and his specific ground is that in the complaint, the defacto complainant had stated that initially the victim was assaulted near a car shed by the petitioner and another accused. Thereafter, he was again assaulted brutally. Immediately, on coming to know about the same, the defacto complainant took the victim to the ESI Hospital. Thereafter, for further treatment to the Jipmer Hospital, Pondicherry, later to Apollo Hospital. In this case, no investigation conducted with the Doctors of ESI Hospital and Jipmer Hospital, Pondicherry. Further, in the Accident Register of Apollo Hospital, nothing is recorded against the petitioner about the assault made on the victim, the de-facto complainant to abuse the petitioner, falsely implicated the petitioner's name in this case.



7. On perusal of the final report, it is seen that the investigation completed LW1 to LW12 were examined listed and documents filed. The victim is examined as LW8 and the Doctor from the Apollo Hospital examined as LW9. Since the victim and the Doctor, who gave treatment were examined, further no treatment taken in ESI and Jipmer Hosptial hence, there is no requirement to examine the Doctors form ESI Hospital as well as Jipmer Hospital. The assault is not denied the grievance of the petitioner is that accident fell is projected as an assaulted and further there is delay in lodging the complaint. Hence, possibility of false implication in its very much there. These facts are disputed to be decided only during trial.

8. Further, in this case, investigation completed charge sheet now filed and taken on file in PRC.No.19 of 2022. In view of the same, this Court finds no reason to entertain this Crl.O.P. The Hon'ble Apex Court time and again has held that once charge sheet is filed, the accused can raise his defence before the Trial Court at the time of trial and not by filing quash petition. Hence, this Court is of the view that this petition has no merits and the same is liable to be dismissed.

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

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Inspector of Police
Villupuram Town Police Station
Villupuram
Crime No.357 of 2017.

2.The Public Prosecutor
High Court Madras.

+1cc to Mr.E.C.Ramesh, Advocate, S.R.No.22287

+1cc to Mr.R.Sasikumar, Advocate, S.R.No.21497

Crl.O.P.No.20061 of 2017
and

Crl.M.P.No.12086 of 2017

KV(CO)

SB(19/04/2022)