



Crl.O.P.No.23753 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.23753 of 2022

and

Crl.M.P.Nos.15126 & 15127 of 2022

E.Saravanabarath

... Petitioner

Vs.

1.State by

The Sub Inspector of Police,
Kolathur Police Station,
Aiyamputhur,
Salem 636 303.

2.S.Dhanasekar

... Respondents

PRAYER: Criminal Original Petition filed under 482 of Cr.P.C., pleased to call for the entire records connected with the case in S.T.C.No.133 of 2022 by the learned Judicial Magistrate I, Mettur and quash the same.

For Petitioner : Mr.C.Rajaguru

For Respondents : Mr.S.Santhosh for R1,
Government Advocate (crl.side)



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ORDER

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This Criminal Original Petition has been filed to quash the STC No.133 of 2022 on the file of learned Judicial Magistrate I, Mettur.

2. The learned counsel for the petitioner would submit that the petitioner being an accused gave a complaint against the defacto complainant and the case has been registered against the defacto complainant in Crime No.185 of 2021 for the offences under Sections 294(b), 323, 379, 506(i) of IPC. Later, as a counter blast, the defacto complainant gave a complaint against the petitioner and a case has been registered against the petitioner in Crime No.186 of 2021 for the offences under Sections 294(b) and 323 of IPC. He would submit that the respondent police have enquired both the matters together and filed the final reports before the learned Judicial Magistrate, No.I, Mettur. The learned Magistrate has taken up the cases in STC Nos.133 & 134 of 2022 respectively. He would further submit that in the cases of complaint and counter complaint, the procedure is laid down in order 588 A in old order and 566(2) in new order of the Police Standing Order, to be followed by the Investigating Officer, which is as follows:



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“566(2)- charge sheet in cases and counter cases: In a complaint and counter complaint obviously arising out of the same transaction the investigating officer should enquire into both of them and adopt one or the other of the two courses viz.,(1) to charge the case where the accused were the aggressors or (2) to refer both the cases if he should find them untrue. When the investigating officer proceeds on the basis of the complaint it is his duty to exhibit the counter complaint in the Court and also to prove medical certificates on the opposite side. He should place before Court a definite case which he makes it to accept.”

In the present case, violating the above said order, the first respondent police had filed the final report in both the cases. Apart from that, the learned counsel for the petitioner would contend that the petitioner has not involved in the case in Crime No.186 of 2022 and it is a false complaint and a case in counter. Further, there is no wound certificate obtained for the victim as stated by the prosecution, however, the petitioner has sustained injury and got wound certificate and the same was produced by the police before the Trial Court. Hence, the present petition has been filed to quash the case in STC No.133 of 2022 on the file of learned Judicial Magistrate I, Mettur.



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3. The learned Government Advocate (crl.side) would submit that the petitioner gave a complaint against the defacto complainant and the defacto complainant gave a complaint against the petitioner. Both the complaints were enquired by the first respondent police and the final report has been filed in both the cases before the learned Judicial Magistrate I, Mettur.

4. I have considered the matter in the light of the submissions made by the learned counsel for the parties.

5. On perusal of the fact reveals that the petitioner is an accused in STC No.133 of 2022 on the file of the learned Judicial Magistrate I, Mettur. Admittedly, the petitioner gave a complaint against the defacto complainant and the case has been registered in Crime No.185 of 2022 and the case has been taken on file in STC No.134 of 2022. Learned counsel for the petitioner has raised various contention with regard to contradiction in the complaint as well as not filing of wound certificate and not following the police standing orders. In this regard, based on the factual dispute, this Court cannot quash



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the petition by using power under Section 482 of Cr.P.C. The trial has to commence to find out the truth and at this stage, it is inappropriate to quash the case in STC No.133 of 2022 on the file of learned Judicial Magistrate I, Mettur. Therefore, it does not meet the parameters laid down by the 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 & ANR (1985 Crl.L.J.817)*, the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore I find no merit and investigation is to be conducted to find out the truth.

6. Accordingly, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. At this juncture, learned counsel for the petitioner seeks permission of this Court to dispense with the personal appearance of the petitioner. Accordingly, the personal appearance of the petitioner in STC No.133 of 2022



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V.SIVAGNANAM, J.
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on the file of learned Judicial Magistrate I, Mettur is dispensed with on condition that he shall appear before the Trial Court for further proceedings whenever required by the Trial Court.

29.09.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
shk

To

1. The Sub Inspector of Police,
Kolathur Police Station,
Aiyamputhur,
Salem 636 303.

2. The Public Prosecutor,
High Court of Madras.

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and
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