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Crl.OP.No.24662 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P. No.24662 of 2022
and Crl.MP.Nos.15513 & 15510 of 2022

S. Sathiya Priya

... Petitioner

Vs.

1. The Sub Inspector of Police,
T-1, Ambattur Police Station,
Duraismi Street, Kamarajapuram,
Ambattur, Chennai 600 053.

2. Larance

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.54 of 2022 on the file of the Judicial Magistrate, Ambattur and quash the same.

For Petitioner : Mrs.Thenmozhi

For Respondents : Mr.E.Raj Thilak
Addl.Public Prosecutor for R1

ORDER

This criminal original petition has been filed to call for the records in C.C.No.54 of 2022 on the file of the learned Judicial Magistrate, Ambattur and quash the same.



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2. The learned counsel for the petitioner submitted that the petitioner is the third accused in C.C.No.54 of 2022 on the file of the learned Judicial Magistrate, Ambattur. She further submitted that there was a love affair between the witness Larence and this petitioner and they both lived together jointly for some years and thereafter due to some problem they got separated. The petitioner gave two complaints against the defacto complainant and a case has been registered and pending. In order to escape from those two cases, the defacto complainant gave a complaint against the petitioner and a case has been registered and charge sheet has been filed. As per the allegations stated in the prosecution only accused A1 & A2 assaulted and injured the witness Larence. The present petitioner was not present at the time of occurrence and there is no specific overtact attributed against this petitioner. Under these circumstances, he prays to quash the proceedings against the petitioner.

3. The learned Additional Public Prosecutor for the first respondent submitted that at the time of incident this petitioner was present which was witnessed by three witnesses namely Larence, Moideen and Sivakumar. Under these circumstances, whether the petitioner was present at the time of



the occurrence or not, whether she had any connection with the incident or not, all these factual dispute has to be decided during the trial after letting prosecution witness. Before commencement of trial it is not proper to quash the Court proceedings. Hence he prayed to dismiss the petition.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the records, it reveals that the petitioner is the third accused in C.C.No.54 of 2022 on the file of the learned Judicial Magistrate, Ambattur and the respondent police had prosecuted the petitioner/third accused along with two other accused for having committed the offence punishable under Sections 341, 294(b), 326, 506(ii) IPC r/w 34 IPC. The allegation charged against the petitioner along with two other accused is that on 16.07.2019 at about 1:30 p.m. while victim Larance was in his shop, this petitioner along with other two accused entered into the shop and used filthy language and the other accused 1 & 2 assaulted him with knife and wooden log and thereby caused injuries. This petitioner was also present at the time of occurrence in that place and also she brought two other accused to the shop. Under these circumstances, the petitioner disputed her presence at the time of occurrence, this factual dispute has to be adjudicated after letting



evidence by the prosecution. Before commencement of trial it is inappropriate to quash the proceedings.

6. All these facts are matter of evidence and this Court cannot go into all those factual aspects and conduct roving enquiry while exercising its jurisdiction under section 482 Cr.P.C. 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 CrI.L.J.817)*. and it is inappropriate to quash the C.C.No.54 of 2022 on the file of the Judicial Magistrate Court, Ambattur. Hence, I find no merit in this petition and the same is liable to be dismissed.

7. Accordingly, the criminal original petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

12.10.2022

Index : Yes/No
Speaking/Non speaking order
dpq



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To

1. The Sub Inspector of Police,
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Duraismi Street,
Kamarajapuram,
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2. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

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