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Crl.OP.No.24669 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.24669 of 2022**  
**and Crl.MP.Nos.15524 & 15525 of 2022**

S. Vijayarajkumar ... Petitioner

Vs.

1. The Inspector of Police,  
Ariyankuppam Police Station,  
Puducherry.

2. Vijayaprabakaran ... Respondents

**PRAYER:** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records in C.C.No.315 of 2016 in Crime No.92 of 2015 on the file of the Judicial Magistrate III, Puducherry and quash the final report filed against the petitioner.

For Petitioner : Mr.D.Senthilkumar

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

**ORDER**

This criminal original petition has been filed to call for the entire records in C.C.No.315 of 2016 in Crime No.92 of 2015 on the file of the



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Judicial Magistrate III, Puducherry and quash the final report filed against the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner is the second accused and there is no specific allegation against the petitioner and further the victim, who is the mother of the defacto complainant has not been assaulted by the petitioner with the iron rod as stated in the Statement under Section 161 of Cr.P.C. She had simply stated that two persons came to her house at about 20:30 hrs with an iron rod and threatened to execute the documents in their names and thereafter Sundaramoorthy one of the accused assaulted her with an iron pipe rod and this petitioner pulled her down and sustained injuries by falling down and there is no other evidence to connect the petitioner in this case. Hence he pleaded to quash the proceedings against the petitioner.

3. The learned Additional Public Prosecutor for the first respondent submitted that the witness summon has been issued by the trial Court and posted the case on 07.12.2022 for examination of prosecution side witnesses.



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

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5. On perusal of records it reveals that the petitioner is the second accused in C.C.No.315 of Judicial Magistrate No.III, Pondicherry. The petitioner along with other accused have been prosecuted by the respondent police for having committed offence under Section 326, 324, 306IPC r/w 34 of IPC. It further reveals that two persons assaulted the victim with iron pipe and on perusal of statement of Saroja/victim, it is seen that on 28.07.2015 at about 8:00 p.m. this petitioner along with one Sundarmoorthy came to her house and on opening the door, she found the petitioner and one Sundaramoorthy with iron pipe rod and also having papers and compelled her to sign the papers. Since she had refused, Sundaramoorthy assaulted her with iron pipe and this petitioner pulled her down and caused injuries, thereafter she went to Pondicherry Government Hospital for treatment by ambulance and police recorded the statement in the hospital.

6. Under these circumstances, for proper adjudication of the case trial has to be commenced and before commencement of trial, it is not proper to quash the proceedings in C.C.No.315 of 2016 on the file of the Judicial Magistrate Court No.III, Puducherry and the allegation against the petitioner



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has to be justified by examining the witnesses and the matter has to be adjudicated to find out the truth. 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)*. 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 petition is closed.

**12.10.2022**

Index : Yes/No  
Speaking/Non speaking order  
dpq

To



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1. The Inspector of Police,  
Ariyankuppam Police Station,  
Puducherry.
2. The learned Judicial Magistrate No.III,  
Puducherry.
3. The Public Prosecutor,  
High Court of Madras.



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**V. SIVAGNANAM, J.**

dpq

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