

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.26033 of 2021

1. M.Moorthy
2. M.Saravanan
3. M. Gajendiran
4. K.Ulaganathan
5. M. Mullaivendhan
6. R.Raji
7. S.Ramachandran

... Petitioners/A 1-7

Versus

- 1.The State Rep. by
Inspector of Police,
F-4, Kiliyanur Police Station,
Villupuram,
Cr.No.112 of 2021 ...1st Respondent/ Complainant

- 2.Balaji ...2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C to call for records and quash the F.I.R. Registered in Crime No.112 of 2021 against the petitioners pending on the file of the respondent Police.

For Petitioners : Mr.R.Sreedhar

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor for R1
No Appearance for R2

ORDER

The petitioners, who are accused in Crime No.112 of 2021 for offences under Sections 147, 148, 294(b), 427 and 506(2) of IPC has filed this quash application.

2. The gist of the complaint is that on 23.04.2021, at about 09:30 p.m, while the de-facto complainant / 2nd respondent was proceeding to his house in his car, the first accused Moorthy had obstructed the car by parking his Hero Honda Splendour bike across the road. When the de-facto complainant requested A1 to move the bike, and clear obstruction, the first accused abused the de-facto complainant and further refused to remove the bike. The de-facto complainant manoeuvred the car and passed, at that time the side mirror slightly had a brush with the bike. Thereafter, the de-facto complainant reached home. The said Moorthy along with six others namely A1-A7 came to the house of the de-facto complainant, started abusing and attacked him. The de-facto complainant thereafter proceeded to Kiliyanoor Police Station along with his brother-in-law Kamalrasu, Baskar and one Thangarasu. At that time, A1 to A3 attacked the de facto complainant with stick, pipe and knife and also damaged his Tata Indigo Car PY01BF8056. The de-facto complainant took treatment at Tindivanam Government Hospital and lodged the present complaint.

3. The contention of the petitioner is that the de-facto complainant is an aggressor person, it is his habit to pick up quarrel with everyone and he used to show his muscle power and dominance to someone. On the date of occurrence, the de-facto complainant was driving his car in a rash and negligent manner, which was questioned by the petitioners for which a false complaint has been lodged against them. The learned counsel for the petitioners further submits that with regard to 5th petitioner, he is the first generation graduate in his family and with great difficulty, he applied and got selected in the Uniformed Services. After his selection, he was medically examined on 06.01.2022 and in the physical test, he got selected. Due to the pendency of the above FIR against him, the possibility of the 5th petitioner getting employment would get affected. Hence, with regard to A5, learned counsel sought quashing of the FIR. It is further submitted that except, bald allegation that the accused attacked the de facto complainant and abused him, no specific overtact against the 5th petitioner. As regards the subsequent attack on the de-facto complainant, the specific allegation are made against three persons also, there is no whisper about 5th petitioner. He further submitted that the 5th petitioner was not even present in the scene of occurrence. Hence, he prayed for quashing of the FIR against the petitioners.

4. The learned Additional Public Prosecutor appearing for the 1st respondent Police submits that the petitioners brutally attacked the de facto complainant to show their muscle power and also damaged his car. When the de-facto complainant proceeded to lodge a complaint, again his car was damaged by the petitioners. There is no reason for the de-facto complainant to falsely implicate the 5th petitioner in this case. He fairly submitted as regards the 5th petitioner, he has

no bad antecedents and now, he is qualified for the Uniformed Services. He further submitted that the pendency of above case, might affect his career.

5. This Court considered the rival submissions and perused the materials available on record.

6. This Court on 04.01.2022 ordered notice to the de-facto complainant, which was refused and thereafter, his name has been printed in the cause list. Despite the same, he failed to appear before this Court either in person or by his respective counsel.

7. It is seen that A5 is aged about 20 years and, is the first generation Graduate in his family and he got selected in the Uniformed Services. On perusal of the materials, there is no specific allegation against him, except for a sweeping reference. Due to the pendency of the above case, his future and career would get affected and his family would be put to untold misery. Now, the precious period will be lost forever.

8. In view of the above, this Court is inclined to quash the FIR in Crime No.112 of 2021 pending against the 5th petitioner alone.

9. Accordingly, this Criminal Original Petition is partly-allowed and the FIR in Crime No.112 of 2021 is quashed as against the 5th petitioner alone.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

rap/mp

To

1.The Inspector of Police,
F-4, Kiliyanur Police Station,
Villupuram,

2.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.R.Sreedhar, Advocate SR. No.3531

CRL.O.P.No.26033 of 2021

BS (CO)

PR (21/01/2022)