



Crl.O.P.No.23612 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23612 of 2017

1.N.Thangavelu, M/48 years,
S/o.Nataraj Chettiar,

2.T.Santhamanai, F/45 years,
W/o.N.Thangavelu

3.N.Kamalathal, F/65 Years,
W/o.Nataraj Chettiar

All are residing at
Near Ration Shop, Velliyampalayam,
Kottamangalam Post,
Udumalaipet Taluk.

... Petitioners

Vs.

1.P.Balaksrishnan, M/40 years
S/o.Palanisamy,
No.3/22, Velliyampalayam,
Kottamangalam Post,
Udumalaipet Taluk.

2.The Inspector of Police,
Gudimangalam Police Station,
Tiruppur District.

... Respondents



Crl.O.P.No.23612 of 2017

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PRAYER : This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the complaint in C.C.No.61/2017 pending on the file of the Judicial Magistrate No.II, Udumalaipet.

For Petitioner : Mr.S.N.Arunkumar
for Mr.M.N.Balakrishnan

For Respondents : Mr.R.Nandhakumar (for R1)
Legal aid counsel

Mr.L.Baskaran (for R2)
Government Advocate

ORDER

This Criminal Original Petition has been filed to call for the records and quash the complaint in C.C.No.61/2017, pending on the file of the learned Judicial Magistrate No.II, Udumalaipet.

2.Read this in conjunction with and in continuation of earlier proceedings made on 28.09.2022, which is extracted as follows:

“The petitioners/Accused 1 to 3, who are facing trial in C.C.No.61 of 2017 on the private complaint lodged by the respondent for the offence under Sections 294(b), 324, 323 and 506(ii) of I.P.C., have filed this quash petition.



Crl.O.P.No.23612 of 2017

WEB COPY

2. *The gist of the complaint is that on 07.05.2017, which was a holiday for the respondent, at about 4.00 p.m., while the respondent returning from his friend's house, namely, Kanakaraj, it was found that a Flat UNO car bearing Registration No.TN-41-L-6699 was parked in front of the respondent's gate causing obstruction. Hence, the respondent called the first petitioner and asked him to move the car from that place, which was objected by the first petitioner and a wordy quarrel arose between them, thereby the respondent was assaulted with iron rod. Hence, he lodged a complaint against the petitioners and a case was registered.*

3. *The contention of the petitioners is that the respondent is the aggressor in the incident. He came to the petitioner's house and used abusive language and thereafter tried to set the petitioner on fire using kerosene. On 07.05.2017, the petitioner had gone to a temple and returned home at 3.30 p.m. and he parked his car below the Neem tree, which was near the respondent's house. The respondent objected to the same and the car was moved out. The respondent in a drunken mood used abusive languages and threatened the petitioners. Hence, a complaint was lodged against him and a case was registered in Crime No.147 of*



Crl.O.P.No.23612 of 2017

2017. In that case the respondent was arrested and remanded. As a defensive to the complaint, a false complaint has been given against the petitioners as though he was assaulted using iron rod. In this case no materials have been seized, no wound certificate or no witness to state about the incident. The trial Court ought not have taken the case on file. Hence, prayed for quashing of this petition.

4. Mr.Nandhakumar, Legal Aid counsel appearing for the respondent submitted that the case in Crime No.147 of 2017 and C.C.No.61 of 2017 are in the nature of case in counter. It is submitted that the occurrence had taken place on 07.05.2017 at or about same time. The case of the petitioners is that the petitioners were threatened and abused by the respondent. On the other hand, the case of the respondent is that the respondent was attacked by the petitioners using iron rod. The respondent was arrested and remanded. In this case, he was in prison for one week. Since the police has not investigated the respondent's case, he filed a private complaint. On the sworn statement and materials produced by the respondent, the trial Court taken the complaint on file and issued summons to the petitioners. Immediately, the petitioners have filed this quash petition. Now he is informed that in Crime No.147 of 2017, investigation completed and charge sheet filed



Crl.O.P.No.23612 of 2017

against the respondent. Either this case to be tried along with Crime No.147 of 2017 or both the cases to be quashed, otherwise great prejudice would be caused to the respondent. Crime No.147 of 2017 jurisdictional Court is Judicial Magistrate No.II, Udumalpet.

5. Heard the learned counsel appearing on either side.

6. Finding that in Crime No.147 of 2017, now investigation completed and charge sheet filed by the Gudimangalam Police, Tiruppur District. In view of the same, this Court suo-motu impleads the Inspector of Police, Gudimangalam Police Station, Tiruppur District as second respondent in this case.

7. Learned Government Advocate (Crl. Side) is directed to get instructions with regard to the steps taken and the stage of case in Crime No.147 of 2017 and file a status report on or before 19.10.2022. In the meanwhile, the Inspector of Police, Gudimangalam Police Station, Tiruppur is directed to inform the respondent herein, namely, P.Balakrishnan, S/o.Palanisamy, No.3/22, Velliyampalayam, Kottamangalam Post, Udumalaipet Taluk about the pendency of the above Criminal Original Petition.”



Crl.O.P.No.23612 of 2017

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3.Today, it is submitted that Cr.No.147 of 2017, culminated into a charge sheet and the same has been taken on file as C.C.No.149 of 2022 by the learned Judicial Magistrate No.II, Udumalaipet.

4.In view of the same, since this Court finds that C.C.No.61/2017 and C.C.No.149 of 2022, pending on the file of the learned Judicial Magistrate No.II, Udumalaipet are in the nature of case in counter, learned Judicial Magistrate No.II, Udumalaipet is directed to try the said cases, simultaneously and dispose of the same on the same day.

5.With the above direction, this Criminal Original Petition is disposed of. This Court appreciates the strenuous efforts taken by Mr.R.Nandhakumar, learned legal aid counsel appearing for the first Respondent.

18.11.2022

Internet : Yes/No

Index : Yes/No

Speaking order/Non-speaking order

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6/8



Crl.O.P.No.23612 of 2017

To

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1.The learned Judicial Magistrate No.II,
Udumalaipet.

2.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.23612 of 2017

M.NIRMAL KUMAR, J.

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Crl.O.P.No.23612 of 2017

Dated: 18.11.2022