



CRL.O.P(MD)No.11233 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.11233 of 2022

Jagadeesh

... Petitioner/Proposed Accused

Vs.

1.State through
The Inspector of Police,
Sivagangai Police Station,
Sivagangai.
(Crime No.35 of 2016)

...1st Respondent/Complainant

2.Selvam

3.Thatchinamoorthy

4.Marimuthu

... Respondent Nos.2 to 4/
Accused Nos.1 to 3

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 03.03.2022 passed in CrI.M.P.No.5610 of 2021 in C.C.No.19 of 2020 on the file of the Chief Judicial Magistrate, Sivagangai and allow the Criminal Original Petition.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.R.Sureshkumar
Government Advocate (Crl.side) for R1



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ORDER

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This Criminal Original Petition has been filed to set aside the order dated 03.03.2022 passed in CrI.M.P.No.5610 of 2021 in C.C.No.19 of 2020 on the file of the learned Chief Judicial Magistrate, Sivagangai

2.The learned counsel for the petitioner submitted that the case has been registered against the petitioner, namely, Jagadesh and the respondent Nos.2 to 4 in Crime No.35 of 2016 for the offences punishable under Sections 294(b), 323, 324 , 506(i) and 506 (ii) IPC. After investigation, the respondent police has filed a charge sheet only against the respondents 2 to 4 and deleted the petitioner's name, as there is no evidence against him. The case has been taken on file in C.C.No.19 of 2020 on the file of the learned Chief Judicial Magistrate, Sivagangai for the offences punishable under Sections 294(b), 323, 324, 506(i) and 506(ii) of IPC. During trial, the witnesses deposed about the participation of the petitioner Jagadeesh. Therefore, the Sub Inspector of Police, Sivagangai Town Police Station has filed a petition in Cr.M.P.No.5610 of 2021 in C.C.No.19 of 2020 under Section 319 Cr.P.C., to implead the petitioner's name/Jagadesh as an accused, which was objected by the accused therein. After considering the



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same, based on the evidence of the prosecution witnesses, the learned Chief Judicial Magistrate, Sivagangai has allowed the said petition and included the petitioner's name/Jagadesh as an accused. Aggrieved by the said order, the petitioner has filed this petition.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that initially the case has been registered against the petitioner and the respondents 2 to 4. After investigation, the charge sheet filed only against the respondents 2 to 4 and the petitioner's name was deleted by the Investigation Officer, as there is no evidence against him. But during trial, the prosecution witnesses deposed about the participation of the petitioner/Jagadeesh, therefore, the trial Court ordered to implead the petitioner's name as an accused. He further submitted that the petitioner has also filed a discharge petition in Crl.M.P.No.2077 of 2022 on 09.06.2022 and the same was pending.

4. I have considered the submission of the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondent police.



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5.A perusal of the records reveals that based on the complaint given by one Rameshkumar/defacto complainant, S/o.Grusamy the case has been registered in crime No.35 of 2016 for the offence punishable under Sections 294, 323, 324, 506 (i) and 506(ii) IPC. The defacto complainant alleged that on 17.01.2016 at about 6.15 p.m., while he was in his house along with family members, the petitioner and the respondents 2 to 4 came to his house and abused and assaulted the defacto complainant. After registering FIR, the case has been investigated by the Inspector of Police and the petitioner's name was deleted in the charge sheet, as there is no evidence against him. The case has been taken on file in C.C.No.19 of 2020 before the Chief Judicial Magistrate, Sivagangai. During trial, PW1/Rameshkumar, injured person and PW2/Amaravathi, eye witness of the occurrence deposed about the involvement of the petitioner and the learned Chief Judicial Magistrate has re-produced the deposition given by PW1 and PW2 in the impugned order.

6.A perusal of deposition of PW1 and PW2 shows that, they clearly deposed about the involvement of the impleaded accused, namely, Jagadesh



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in the crime. The learned counsel for the petitioner argued that the other prosecution witnesses cannot be examined. Only based on the evidence of PW1 and PW2, the impugned order has been passed, which is sustainable under Section 319 of Cr.P.C., which reads as follows:-

"319. Power to proceed against other persons appearing to be guilty of offence.

(1) Where, in the course of any inquiry into, or trial of, an offence,, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed."

7. Therefore, for impleading a person as an accused, all prosecution witnesses need not to be examined, the injured and eye witnesses of the occurrence are enough. The trial Judge, satisfying with the evidence of injured and eye witnesses, has impleaded the accused. Therefore, this Court does not find any error in the impugned order and any merit in this case.



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V.SIVAGNANAM, J.

vsd

8.Hence, the Criminal Original Petition stands dismissed.

24.06.2022

Internet: Yes./No

Index: Yes/no

vsd

To

- 1.The Inspector of Police,
Sivagangai Police Station,
Sivagangai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER IN
CRL.O.P(MD)No.11233 of 2022