



CRL.O.P.No.3690 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.3690 of 2022

and

CrI.M.P.Nos.1761 and 1763 of 2022

E.Prem Anand

... Petitioner/A-6

Versus

1. State Represented by:

The Inspector of Police,
Hasthampatty P.S,
Salem City, Salem District.
Crime No.584 / 2012.

... Respondent/Complainant

2. Ramesh

... R2/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to quash the proceedings in P.R.C.No.05 of 2016 pending on the file of the Judicial Magistrate No.3, Salem in respect of this petitioner, by allowing this criminal original petition.

For Petitioner : Mr.R.Marudhachalamurthy

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor



ORDER

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This Criminal Original Petition has been filed by the petitioner/A6 to quash the proceedings in P.R.C.No.5 of 2016, on the file of the Judicial Magistrate Court No.111, Salem, for offence under Sections 450, 395 r/w 397, 395, 506(ii), 427 and 414 of IPC.

2. This Court, on 20.06.2023, had passed the following order:

"This Criminal Original Petition has been filed by the petitioner/A6 to quash the proceedings in P.R.C.No.5 of 2016, on the file of the Judicial Magistrate Court No.11, Salem, for offence under Sections 450, 395 r/w 397, 395, 506(ii), 427 and 414 of IPC.

2. Learned counsel for the petitioner submitted that as against the petitioner/A6, the offence under Sections 450 and 395 of IPC are projected without any material. In this case, LW1 and LW2 are defacto complainants/victims. The case is that on 12.08.2012, at about 04.30 p.m., when LW1 and LW2 were waiting in the office of Santhosh Kumar, who is an Advocate, six persons entered into the office threatened LW1 and LW2, inflicted injuries and snatched away gold chain and other articles from them. Further, LW1 and LW2 were threatened not to raise any alarm for \ hours till six of them leave the place. After they left the office, LW1 and LW2 shouted chasing them. LW4, LW5 and LW6, who are public present in the scene of occurrence, joined LW1 and LW2 and chased all the accused. During investigation, the statements of LW4, LW5 and LW6 are recorded as though A1, A2 & A4 are known persons. As regards, the petitioner, who is A6, his name not found in the FIR. It is stated that apart from A1 to A4, the other two persons, one was well body built person, another a slim person. To confirm the same, no Test Identification Parade has been conducted in this case. The petitioner studied B.C.A. in Dr.G.R.Damodaran



College of Science, Coimbatore and thereafter, joined Central Law College, Salem and completed his law. Due to pendency of the above case, he is unable to get enrolled as Advocate.

3. He further submitted that LW3 is an Advocate Santhosh Kumar who reached the Scene of Occurrence after hearing about the incident. LW7 and LW8 are the witnesses for arrest and confession statement of A3 and A5. LW9 and LW10 are witnesses for Recovery Mahazar. LW11 is the Investigating Officer. He further submitted that admittedly, there is no recovery from the petitioner and the petitioner has been implicated on the confession of the co-accused. Now, the case in P.R.C.No.5 of 2016 could not be committed to the Court of Sessions from the year 2016 since one of the accused/A3 is absconding. As against him, Non-Bailable Warrant has been issued and the same is pending. Though a petition for split up and to commit the case to the Court of Sessions is filed, the same is still kept pending.

4. To get further instructions, learned counsel for the petitioner seeks small accommodation.

5. At the request of the learned counsel for the petitioner, post the matter on 22.06.2023."

3. In continuation and conjunction to the earlier order passed by this Court on 20.06.2023, the petitioner's only apprehension is that, keeping the case pending endlessly would only create agony to the petitioner. Though the petitioner completed his law graduation, he is unable to get enrolled as Advocate.



4.The learned counsel for the petitioner submits that the Trial Court may be directed to commit the case after split up, if there is absconding accused.

5. The Additional Public Prosecutor appearing for the respondent/complainant submits that one of the accused/A3 is absconded, for that reason, the case is kept pending from 2013 onwards. He further submits that either the Respondent would produce the accused/A3 or steps would be taken to file appropriate petition to split up the case.

6. In view of the submission made by the learned counsel appearing on both sides, this Courts directs the respondent's police either to secure the accused/A3 or file a petition to split up the case against the absconding accused and take steps to commit the case to the Court of Session. Such exercise shall be done within a period of one month from the date of receipt of a copy of this order. On such filing of petition for proclamation, the Judicial Magistrate Court No.III, Salem, shall proceed with the same, without delay, and commit the case to the Court of Session.



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7. With the above direction, this petition is disposed of.

Consequently, connected miscellaneous petitions are closed.

22.06.2023

Index : Yes/No

Internet : Yes/No

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To

1. The Inspector of Police,
Hasthampatty P.S,
Salem City, Salem District.
Crime No.584 / 2012.
2. The Judicial Magistrate No.3,
Salem.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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