



CrI.O.P.No.6120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.6120 of 2023

and

CrI.M.P.No.3834 of 2023

Dhayalan

...

Petitioner

-VS-

1.The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.

2.Maheshwari

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for records and quash the Charge sheet in Spl.S.C.No.35 of 2020 on the file of Special Court, Tiruvannamalai District.

For Petitioners

...

M/s.Karan and Uday

For Respondent-1

...

Mr.S.Santhosh

Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to call for records and quash the Charge sheet in Spl.S.C.No.35 of 2020 on the file of Special Court, Tiruvannamalai District.



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2. Learned counsel for the petitioner submitted that, there is a counter case in Crime No.72 of 2020 registered for the offences under Sections 147, 148, 294(b), 342, 323, 324, 506(i), 307 of IPC and 4 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 is pending. Without filing final report in Crime No.72 of 2020, respondent police filed final report only in Crime No.71 of 2020. The First Information Report and final report allegations do not make out a case against the petitioner, therefore, the case against the petitioner has to be quashed.

3. In response, learned Government Advocate (Criminal side) submitted that investigation in Crime No.72 of 2020 is pending and final report will be filed soon.

4. Considered the submissions and perused the records.

5. The First Information Report allegations in Crime No.71 of 2020 reads that on 23.02.2020 at about 5pm, when the defacto complainant was in her house, his son Kalaiyarasan, his friends Mohandass, Vaitheeswaran,



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Anbalagan, Harikrishnan, Arun, Kesavan @ Rajanbabu, Prabakaran,

Velmurugan and others were playing volley ball in a ground opposite to the Government Hospital. One Sathish, Raja, Jayakandhan, Dhiliban had been riding two wheeler in a rash and negligent manner and repeatedly making noise. When defacto complainant's son Kalaiyarasan and his friends intercepted them and asked why they were riding two wheeler in rash and negligent manner, they responded by saying that they would do whatever they like and scolded the defacto complainant's son in a filthy language and denigrated his caste. Ten minutes later accused Dhayalan, Raja, Jayakandhan, Kalaivanan, Parthiban, Satheesh, Dhiliban, Murali, Venkatesan, Ilayaraja and Prabakaran had taken his son, and Dhayalan stabbed Kalaiyaran on his left chest. When Kalaiyarasan's friends tried to help him, Dhayalan stabbed one Rajanprabhu @ Kesavan. Venkatesh stabbed Prabakaran. Raja stabbed Velmurugan and all the accused fled from the place of incident. On the basis of the complaint, First Information Report in Crime No.71 of 2020 was registered. After investigation, respondent police filed final report against the accused for the offences under Sections 147, 148, 294(b), 342, 324, 506(ii), 302 of IPC and



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3(2)(va) and 3(1)(r) of the SC and ST (Prevention of Atrocities)

Amendment Act 2015.

6. A perusal of the copies of the Statement of witnesses, especially Statement of defacto complainant and eye witnesses supports the case of the prosecution. Merely because final report is not filed in counter case so far, the prayer for quashment of Charge sheet in Spl.S.C.No.35 of 2020 on the file of Special Court, Tiruvannamalai District cannot be entertained. The material filed along with the final report clearly makes out a prima facie case for framing charges against the petitioner for the offences under Sections 147, 148, 294(b), 342, 324, 506(ii), 302 of IPC and 3(2)(va) and 3(1)(r) of the SC and ST (Prevention of Atrocities) Amendment Act 2015, mentioned in the final report.

7. Therefore, there is no merit in seeking quashment of the Charge sheet in Spl.S.C.No.35 of 2020 on the file of Special Court, Tiruvannamalai District. In this view of the matter, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.



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WEB COPY

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

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To

1.The Special Court, Tiruvannamalai District.

2.The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.

3.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.

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