



Crl.O.P.No.6511 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6511 of 2021 and
Crl.M.P.No.4322 of 2021

L.Mathialagan @ Chandrasekaran

... Petitioner

-Vs-

1) The state rep. by
Sub-Inspector of Police,
Chinna Salem Police Station,
Villpuram District.

2) P.Dhanalakshmi

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.34 of 2020 dated 03.02.2020 on the file of the Judicial Magistrate 2, Kallakuruchi and quash the same.

For Petitioner : Mr.V.Chandraprabu

For Respondent 1 : Mr.A.Gopinath,
Government Advocate (Crl.Side)

For Respondent 2 : No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.34 of 2020 on the file of the Judicial Magistrate No.2, Kallakurichi for the offences under Sections 147,148,294(b),352,448,427 and 509(ii) of IPC and Section 4 of TamilNadu Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that this petitioner is the brother of the Defacto-complainant. On 09.06.2019 at about 11.00a.m, this petitioner and six others came to the residence of the defacto-complainant with lethal weapons and abused the 2nd respondent/defacto-complainant with filthy languages. The petitioner and six others have demolished the house of the 2nd respondent and also damaged the articles in the house and caused a loss to the tune of Rs.20,000/-. Hence the complaint.

3. The learned counsel for the petitioner submitted that there are totally seven accused, in which this petitioner is arrayed as 1st accused. He further submitted that a land was given to the petitioner by his father under a registered WILL bearing Document No.30/1998 dated 01.04.1998. Under the above said registered WILL dated 01.04.1998, the petitioner's father



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Mr.Lakshmana Mupeer had bequeathed the 12 acres of land in favour of his two sons. However the 2nd respondent also claims the same property by way of unregistered WILL dated 27.10.2001. The said will was fabricated one The 2nd respondent is claiming title to the property on the strength of fabricated and forged WILL. While being so, on 09.06.2019 at about 11.00a.m. this petitioner and other accused entered the house of the defacto-complainant and attacked her. They also damaged the household articles worth about 20,000/-.

4. On perusal of the statement recorded from the witnesses revealed that there was a dispute in respect of the property which was already bequeathed in favour of this petitioner. It is evident that there are inconsistencies in the statements made by the witnesses who all spoke about the alleged incident took place on 09.06.2019. The learned counsel for the petitioner also stated that the subject land in question was already bequeathed in his favour. Therefore, this petitioner is in possession and enjoyment of the said property along with his family members. The entire occurrence taken place on 09.06.2019 is false and no such occurrence happened. The grounds raised by the petitioner can be considered only before the trial court during trial.



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5. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.34 of 2020 in Crime No.372 of 2019 on the file of the Judicial Magistrate 2, Kallakurichi. The petitioner is at liberty to raise all the grounds before the trial Court. The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

6. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

24.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

- 1) The Judicial Magistrate 2,
Kallakurichi.
- 2) The Sub-Inspector of Police,
Chinna Salem Police Station,
Villpuram District.
- 3) The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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