



Crl.O.P.No.9164 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.9164 of 2023

and

Crl.M.P.No.5930 of 2023

Ganagasabai

... Petitioner

Vs.

1.State rep by;
Inspector of Police,
Sipcot Police Station,
Gummidipoondi,
Thiruvallur District,
(Crime No.142 of 2019)

2.Jayabal

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the entire records in PRC No.4 of 2022 on the file of the
District Munsif Cum Judicial Magistrate Court at Gummidipoondi
Thiruvallur District.

For Petitioner : Mr.R.Simon David

For Respondents : Mr.S.Santhosh

Government Advocate (Crl.Side) (R1)



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ORDER

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This Criminal Original Petition has been filed to call for the entire records in PRC No.4 of 2022, on the file of the District Munsif Cum Judicial Magistrate Court, Gummidipoondi, Thiruvallur District and quash the same.

2.The learned counsel for the petitioner submitted that petitioner is the eighth accused in PRC No.4 of 2022. The complaint allegations and the statement of witnesses did not make out any specific allegations to the overtact committed by the petitioner. Petitioner is falsely implicated in this case and therefore this petition.

3.In response, the learned Government Advocate (Crl.Side) submitted that FIR allegations and the statement of second respondent/defacto complainant supports the case of the prosecution. It is seen that the accused had threatened the second respondent/defacto complainant and attempted to commit murder of him and then, they had taken Rs.2,000/- from him. Therefore, all the accused should face the trial



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for the offences under Sections 147, 148, 294 (b), 336, 341, 307 & 397
IPC.

4.Considered the rival submissions and perused the records.

5.It is seen from the FIR allegations that the accused in the case had come in four cars. At about 8 p.m., on 25.04.2019, second respondent/defacto complainant was returning home with his salary amount of Rs.2,000/-. The accused stopped him, holding knife and wooden log and scolded in filthy language. Further, the accused told the second respondent/defacto complainant that they murdered one DinaKumar, all company owners and wealthy persons were paying them ransom. The first accused asked the other accused to cut the second respondent/defacto complainant into pieces. Sathyanathan and Madhan cut him with their knife and when he tried to escape, first accused had taken Rs.2,000/- from his pocket. On hearing his noise, public around the area came there and he was saved. After the completion of investigation, final report is also filed reiterating the similar allegations. It is seen from the FIR allegations and final report allegations that the specific overtact is



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alleged only against the accused Bharath, Sathyanathan and Madhan.

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There is no specific allegations of overtact alleged against the petitioner.

6. When enquired about the nature of the injuries suffered by the second respondent/defacto complainant, the learned Government Advocate (Crl.Side) submitted that no wound certificate or accident register copy is available to show the injuries suffered by the second respondent. Second respondent has given a statement supporting the FIR allegations and that his statement is supported to some extent by the witnesses Babu and Viji. These witnesses are not independent witnesses. They are policemen. It is informed that no identification parade was conducted for identifying the accused. The statement of Babu and Viji only show that they can only identify the accused, if they see them.

7. When no identification parade is conducted, the evidence of Babu and Viji is of no use. As already indicated, there is no material to show that the second respondent/defacto complainant suffered injuries warranting prosecution for the offences under Section 307 IPC. When



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there is no identification parade conducted, no wound certificate/accident register copy available, when no specific overtact is alleged against the petitioner, prosecuting the petitioner is nothing but an abuse of process of law. Therefore, this Court finds that there is no legal evidence available against the petitioner for trying him in connection with the offences under Sections 147, 148, 294 (b), 336, 341, 307 & 397 IPC in Crime No.142 of 2019.

8.In this view of the matter, this Criminal Original Petition is allowed and as a sequel, the proceedings in PRC No.4 of 2022, on the file of the District Munsif Cum Judicial Magistrate Court at Gummidipoondi Thiruvallur District, is quashed as against the petitioner. Consequently, connected miscellaneous petition is also closed.

26.04.2023

sli
Internet:Yes
Index:Yes/No
Speaking/Non speaking order



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To:

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- 1.The District Munsif Cum Judicial Magistrate Court,
Gummidipoondi, Thiruvallur District.
- 2.The Inspector of Police,
Sipcot Police Station,
Gummidipoondi,
Thiruvallur District,
(Crime No.142 of 2019)
- 3.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.
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