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Crl.O.P.No.8950 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8950 of 2023

Dhanagandhan

...Petitioner

Vs.

1.The State represented by
The Sub-Inspector of Police,
Cuddalore O.T.Police Station,
Cuddalore.
(Crime No.693 of 2014)

2.Rajesh.G.K

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in STC.No.61 of 2017, on the file of the Judicial Magistrate Court No.2, Cuddalore and quash the same.

For Petitioner : Mr.P.Pugalenth

For Respondent : Mr.S.Santhosh

Government Advocate (Criminal side)



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ORDER

This Criminal Original Petition is filed to call for the records in STC.No.61 of 2017, on the file of the Judicial Magistrate Court No.2, Cuddalore and quash the same.

2. It is submitted by the learned counsel for the petitioner that petitioner is charged for the offences under Section 294(b), 332 and 506(i) of IPC. He submitted that, the Statement of LW-9 Dr.Lekha shows that Rajesh, son of Ramadas, who said to have been injured by the accused had no external injury. It is further submitted by the learned counsel for the petitioner that, in the incident, it was the petitioner who suffered injuries. There is no material to show that Rajesh suffered injury, therefore, charges under Section 332 IPC cannot be made out. Thus, he prayed for quashment of STC.No.61 of 2017, on the file of the Judicial Magistrate Court No.2, Cuddalore.

3. Learned Government Advocate (Criminal side) submitted that, Statement of defacto complainant and eye witnesses corroborates the case of prosecution that, accused had abused the police party, caused hurt to PW1 and made criminal intimidation. The trial is yet to commence in this case.



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4. Considered the rival submissions and perused the records.

5. It is seen from the records produced, the allegations against the accused is that petitioner was taken to Additional Session Court, Neyveli for a case hearing and thereafter, he was brought back to Central Prison, Cuddalore. It is alleged that petitioner sought permission for taking water bottle with him and that was refused by the witness Rajesh. Therefore, petitioner scolded Rajesh in filthy language, pulled his uniform and hit him on his face causing simple injury. Other escort police handcuffed the petitioner and with the handcuff, petitioner hit himself on his head and made death threat to witness Rajesh. Therefore, final report is filed against him for the offences under Sections 294(b), 332 and 506(i) IPC.

6. It is seen from the Statement of witness Rajesh that, he reiterated the allegations against the petitioner. His statement is supported by witness Palaniselvam, Babu, Ranjith, Kathiresan, Baskar, Palani. Though, LW-9 Dr.Lekha stated in her statement that, there is no external injury to the witness Rajesh, however, she was of the opinion that, witness Rajesh suffered simple injury. Merely because, there is no external injury, this Court cannot consider that the victim had not suffered any pain due to the assault made on him.



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7. The trial Court, on considering the evidence can convict the petitioner for a lesser offence by alternating Sections under appropriate provisions, including for the offence under Section 352 IPC for assaulting the witness Rajesh. Apart from the physical assault against the witness Rajesh, petitioner had also abused him in filthy language and made death threat. Thus, from the consideration of the material available in this case, this Court finds there are enough materials for proceeding the trial of the case against the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed, with a direction to the Judicial Magistrate Court No.2, Cuddalore to dispose the case as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this Order, uninfluenced by the observations made in this order.

25.04.2023

Internet :Yes

Index :Yes/No

gd



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To:

- 1.The Judicial Magistrate Court No.2,
Cuddalore.
- 2.The Sub-Inspector of Police,
Cuddalore O.T.Police Station,
Cuddalore.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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