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Crl.O.P.No.14412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.14412 of 2023

1.Kalaiselvan

2.Kalaiyaran

3.Kowsik Raja

4.Poovarasan

5.Siranjivi

... Petitioners

Vs.

1.The Inspector of Police,
Kunnam Police Station,
Perambalur District.
(Cr.No.1038 of 2020)

2.Ramachandran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C. praying to call for the records in connection with the charge sheet laid in C.C.No.25 of 2022 on the file of the learned Judicial Magistrate II, Perambalur and to quash the same.

For Petitioners : Mr.G.Ilamurugu

For Respondents : Mr.Leonard Arul Joseph Selvam



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Government Advocate (Crl. Side)
(For R1)

ORDER

This Criminal Original Petition has been filed to call for the records in connection with the charge sheet laid in C.C.No.25 of 2022 on the file of the learned Judicial Magistrate II, Perambalur and to quash the same.

2.The learned counsel for the petitioners submitted that petitioners are accused in C.C.No.25 of 2023 pending on the file of learned Judicial Magistrate-II, Perambalur. The incident concerned in Crime No.1038 of 2020 said to have been happened at 12.15 p.m. on 10.07.2020. However, even prior to that the second respondent and others have attacked the petitioner at about 10.00 a.m. on the same date and caused injuries. On the basis of complaint given by the first petitioner/Kalaiselvan, First Information Report in Cr.No.1033 of 2020 was registered for the offences under Section 147, 148, 294 (b), 323, 324, 506 (2) I.P.C and Section 4 of TN Prohibition of Harassment of Women Act, 2002, against one Venkatachalam and seven others. Therefore, it is not possible for first petitioner/Kalaiselvan to participate in the incident alleged in the First Information Report in Cr.No.1038 of 2020. It establishes the fact that the complaint is a false complaint and on that basis First Information Report in Cr.No.1038 of 2020



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was registered. It is his further submission that the form 91 shows that the properties have not been produced when the form 91 was presented before the Court. There is an endorsement to that effect. On these reasons, the learned counsel for the petitioners seeks quashing the First Information Report in C.C.No.25 of 2022 on the file of the learned Judicial Magistrate II, Perambalur. He further submitted that there is a delay of eight days in giving complaint.

3.In response the learned Government Advocate (Criminal side) submitted that in two different incidents, two parties attacked each other and some suffered injuries. Two First Information Reports in Cr.No.1038 of 2020 and 1033 of 2020 were registered. After completion of investigation final report was filed and the case was taken on file in C.C.No.25 of 2022 in respect of Cr.No.1038 of 2020.

4.Considered the rival submissions and perused the records.

5.It is seen from the First Information Report allegations in Cr.No.1038 of 2020 that the second respondent said to have been attacked at 12.15 p.m. on 10.07.2020 by the accused with iron rod, stick and hands. It is also alleged



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that accused had taken cellphone worth Rs.7000/- and cash of Rs.16,000/-.

On the basis of the First Information Report allegations, investigation was conducted, now final report was filed for the offences under Section 147, 148, 294 (b), 323, 324, 427 and 506 (ii) I.P.C. The reading of the First Information Report allegations show that second respondent and eye witnesses namely Rajendran, Valarmathi, Rajamani and Thangavel had given statement. Dr.Ramesh has given statement detailing the injuries suffered by the second respondent.

6. With regard to the submission of learned counsel for the petitioners that first petitioner/Kalaiselvan was attacked by the accused in Cr.No.1033 of 2020 and therefore, he could not have participated in the incident concerning Cr.No.1038 of 2020, it is to be noted that the incidents in both the cases had taken place at different points of time. The incident concerning Cr.No.1033 of 2020 had taken place at 10.00 a.m. and the incident concerned in Cr.No.1038 of 2020 had taken place at 12.00 p.m. on the same date. That is on 10.07.2020. The treatment record produced by the petitioner shows that first petitioner/Kalaiselvan was treated only as out patient. Therefore, it is too early to say that first petitioner/Kalaiselvan could not have participated in the incident concerned in Cr.No.1038 of 2020. Disputed facts are required to be



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examined during the course of trial. As of now, the materials available establish a cause for presuming that petitioners have committed the offences alleged in the final report, requiring framing of charges and trial.

7.In this view of the matter, this Criminal Original Petition is dismissed.

28.06.2023

Internet: Yes
Index: Yes/No
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To:

- 1.The Inspector of Police,
Kunnam Police Station,
Perambalur District.
- 2.The Public Prosecutor
Madras High Court.



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G.CHANDRASEKHARAN, J.

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