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CrI.O.P.No.24587 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.24587 of 2021

and

CrI.M.P.No.13556 & 13557 of 2021

1. Gopalan

2. Govindasamy

... Petitioners

/vs/

Valarmathi

... Respondent

Prayer : Criminal Original Petition has been filed under section 482 of Cr.P.C. to call for the records in CC No.46 of 2021 on the file of the Judicial Magistrate-2, Mettur and quash the same.

For petitioner ... Mr. P. Subba Reddy

For Respondent ... Mr. D. Lakshmipathy

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in CC No.46 of 2021 on the file of the Judicial Magistrate No.II, Mettur.



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2. The petitioners are arrayed as A10 and A1 in CC No.46 of 2021 on the file of the Judicial Magistrate No.II, Mettur. The learned counsel appearing for the petitioners contended that the learned Judicial Magistrate recorded the evidence of the injured persons P.W.1 Valarmathi, P.W.2 Ponnammal and other witnesses, namely, Annamalai, Raji and Govindan and another witness Dr.Sugirtha, and also Mr.Rajinikanth, Inspector of Police. All these witnesses did not state anything about the petitioner Gopalan/A10. He further contended that the injured Valarmathi and Ponnammal in their evidences before the Trial Court had specifically stated that at the time of occurrence the first petitioner/Gopalan(A10) was not present and only the second petitioner/Govindasamy(A1) informed the Gopalan(A10) through phone about the occurrence. It reveals that the first petitioner/Gopalan(A10) was not present at the time of occurrence and there is no specific overt act attributed against this petitioner. Therefore, he prays to quash the criminal proceedings against the petitioners.

3. The learned counsel appearing for the respondent submitted that there is specific allegation as against the second petitioner/Govindasamy(A1). He was present at the time of occurrence and he himself contacted the first petitioner/Gopalan(A10) and informed about the occurrence and seeks for dismissal of the petition.



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4. I have considered the matter in the light of the submissions made by the learned counsel on both sides and perused the materials available on records carefully.

5. Admittedly, the first petitioner is arrayed as A10 and the second petitioner is arrayed as A1 in CC No.46 of 2021 on the file of the Judicial Magistrate No.II, Mettur in pursuance of a private complaint given by the respondent/complainant under Section 200 Cr.P.C., and the same has been taken on file as CC No.46 of 2021 for the offences 294(b), 323, 324, 386, 447 and 506(ii) of IPC. At the time of taking cognizance, the learned Judge recorded the evidences of P.W.1 to P.W.6.

6. I have gone through the evidences of the witnesses. From that, it is noticed that there is no allegation as against the first petitioner/A10. No overtact has been attributed as against the first petitioner/A10. From the evidences, it is seen that the first petitioner/A10 was not present at the time of occurrence.

7. At the time of occurrence, the 2nd petitioner/Govindasamy(A1) was present in the place of occurrence and he himself informed the first



petitioner/Gopal(A10) about the incident. Under these circumstances, there is a specific allegation against the 2nd petitioner/A1 and also he was present at the time of occurrence and two persons were injured . Therefore, it is not proper to quash the criminal proceedings as against the 2nd petitioner/A1 as there is specific allegation against him and he was present at the time of occurrence. Hence, it cannot be adjudicated before this Court while exercising the powers under Section 482 of Cr.P.C. It does not meet the parameters laid down by the Hon'ble Supreme Court in the following cases:

(i) R.P.Kapur Vs. The State of Punjab* reported in *AIR 1960 SC 866

(ii) State of Haryana & Ors. Vs. Ch.Bhajan Lal & Ors.* reported in *AIR 1992 SC 604

(iii) M/s.Neeharika Infrastructure Pvt. Limited Vs. State of Maharashtra & Ors. reported in 2021 SCC Online SC 315

Hence, I find no reason to quash the criminal proceedings as against the second petitioner/A1 and this Criminal Original Petition so far as the second petitioner/A1 is liable to be dismissed.

8. But, so far as the first petitioner/A10 is concerned he was not present in the place of occurrence and there is no specific overt act as against



him. Under these circumstances, it meets the parameters laid down by the Hon'ble Supreme Court in the above said cases. Hence continuing the proceedings against the first petitioner/A10 is misusing the process of law. Therefore, the Criminal Proceedings as against the first petitioner/A10 is liable to be quashed.

9. Accordingly, this Criminal Original Petition is partly allowed and the criminal proceedings as against the first petitioner/A10 in C.C.No.46 of 2021 on the file of the Judicial Magistrate No.II, Mettur is hereby quashed and as against the second petitioner(A1), this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet: Yes/No
mrp

14.09.2023

To

The Judicial Magistrate-2,
Mettur



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Crl.O.P.No.24587 of 20__

V.SIVAGNANAM, J.

mrp

Crl.O.P.No.24587 of 2021

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