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Crl.O.P.No.26012 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.26012 of 2021

and

Crl.M.P.No.14383 of 2021

T. Baskaran

...

Petitioner

/vs/

1. The State represented by
The Inspector of Police,
Puthuchathiram Police Station,
Namakkal District,
Crime No.600/2021

2. Muthusamy

...

Respondents

Prayer : Criminal Original Petition has been filed under section 482 of Cr.P.C. to call for the entire records connected with the charge sheet in C.C.No.368 of 2021 on the file of the Judicial Magistrate -II of Namakkal and quash the same.

For petitioner ... Mr. S. Varanesh

For Respondents ... Mr. L. Baskaran
Government Advocate (crl.side)
for R1

**ORDER**

WEB COPY Challenging the C.C.No.368 of 2021 on the file of the Judicial Magistrate-II, Namakkal, this Criminal Original Petition has been filed.

2. The learned counsel for the petitioner submitted that in pursuance of the complaint given by one Muthusamy, the respondent police registered a case in crime No.600 of 2021 for the offences under sections 294(b), 323, 506(ii) IPC and after completion of investigation, filed final report before the Judicial Magistrate No.II, Namakkal and the same has been taken on file as CC No.368 of 2021. Further, in the charge sheet, the prosecution has not cited any medical evidence to support the allegation of charge of assault and simple injuries. The learned counsel further submitted that Sections 294(b), 506(ii) IPC is not made out. Hence, the simple word is not enough to add the offences under Sections 294(b), 323, 506(ii) of IPC and seeks to quash.

3. The learned Government Advocate (crl.side) appearing for the first respondent submitted that in this case, witness summon has been issued by the Trial Court and trial is to be commenced.



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4. I have considered the submissions made by the learned counsel on either side and perused the materials available on records carefully.

5. On perusal of the records, the fact reveals that the respondent police had registered a case in Crime No.600 of 2021 for the offences under Sections 294(b), 323, 506(ii) of IPC in pursuance of the complaint given by Muthusamy and final report has also been filed. In the final report, the respondent police cited 6 witnesses, in which, the defacto complainant Muthusamy, who is the person affected by the accused, is shown as LW1 and Latha(LW2) and Nanjil Manokaran(LW3) were cited as eyewitnesses. I have gone through the statement of the said witnesses, in which, they had stated that on 28.08.2021, at about 20.00 hours, near Thirumalaipatti bus stop, in the hotel of the defacto complainant, the accused quarreled with the defacto complainant and abused him with filthy language and also threatened him with dire consequences. Even though the petitioner is denying the said allegations as false, it has to be decided before the Trial Court as to whether the charge levelled against the petitioner/accused is true or not. Hence, it is inappropriate to quash the criminal proceedings at the time of trial. It has to be adjudicated by the Trial Court after considering the evidence produced before that Court. Question of fact cannot be adjudicated before this Court



while exercising 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 and I find no merit in the criminal original petition and this Criminal Original Petition is not maintainable and the same is liable to be dismissed.

6. In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed. The Trial Court is directed to dispose the case within a period of four months from the date of receipt of a copy of this order.

Index : Yes/No

Internet: Yes/No

11.08.2023

mrp



CrI.O.P.No.26012 of 20__

To

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1. The Judicial Magistrate,
Judicial Magistrate Court No.II,
Namakkal.
2. The Inspector of Police,
Puthuchathiram Police Station,
Namakkal District,



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V.SIVAGNANAM, J.

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