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CRL.O.P.No.26379 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.26379 of 2022

Udhaya Kumar

... Petitioner

Versus

1. State rep by Inspector of Police,
Ponneri Police Station,
Ponneri, Thiruvallur.

2. Deputy Superintendent of Police,
District Crime Branch,
Thiruvallur.

Respondents

...

3. Ramesh

... Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to quash the charge sheet filed in the STC.No.225 of 2022 on the file of the Learned Judicial Magistrate – I, Ponneri.

For Petitioner : M/s.W.Gamyles Gandhi
Mr.J.Jayan

For R1 & R2 : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed by the petitioner/accused to quash the charge sheet filed in the S.T.C.No.225 of 2022, on the file of the Judicial Magistrate-I, Ponneri, for offence under Section 323 of IPC.

2. The gist of the case is that on 22.04.2018, the defacto complainant / second respondent lodged a complaint stating that he used to take water through the lands of the petitioner for cultivation. One Bharanitharan who purchased the agricultural land, used to take water through pipe line. On 15.04.2018, at about 5.15 pm, the petitioner/accused visited his land and found that digging of land to fix the pipe line. At about 5.30 pm the defacto complainant met the Accused who is in drunken condition, questioned, and there was wordy quarrel between them. The defacto complainant took stick and attacked the petitioner/accused on the shoulder and right leg continuously. Thereafter, the defacto complainant called his son Pravin and relative Santhosh, Rokith and abused Udhayakumar. The petitioner herein assaulted them by using Cricket bat and due to which, he suffered blood injuries and he also suffered by injuries on other parts of the body and thereafter, Udhayakumar was taken treatment at Government Hospital. The



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WEB COPY said Udhayakumar lodged a complaint. Both the complaints were taken on file. The complaint given by the Udhayakumar was registered in Crime No.149 of 2018 and the complaint given by the Ramesh was registered in Crime No.150 of 2018. On completion of the investigation the charge sheet in Crime No.150 of 2018 was filed before the Judicial Magistrate – I, Ponneri, the same was taken on file in S.T.C.No.225 of 2022, which is now sought to be quashed.

3. The contention of the learned counsel for the petitioner is that the petitioner herein sustained serious and grievous injuries and taken treatment in Government Hospital, Ponneri and he was attacked all over the body. On the complaint of the petitioner, a case in Crime No.149 of 2018 was registered and thereafter, investigation completed and charge sheet filed before the Subordinate Court cum Assistant Sessions Court, Ponneri in S.C.No.123 of 2020. He further submits that both cause of action is one and the same, hence both the cases are to be tried by the same Court since it is in the nature of the case and counter. The complaint against the Petitioner was earlier closed as Mistake of fact. Thereafter, defacto complainant's complaint was taken on file in S.T.C.No.225 of 2022. Since the parties and cause of



action are same in S.C.No.123 of 2020 and S.T.C.No.225 of 2022, the same has to be tried by the same Court. In support of his contention, he relied upon the judgment of the Hon'ble Apex Court in the case of ***“Nathilal and others Vs. State of Uttar Pradesh and others reported in 1990 [Supp] SCC 145.”***

4.The learned Additional Public Prosecutor submitted that the case of the petitioner was registered in Crime No.150 of 2018 and case of the Defacto Complainant was registered in Crime No.149 of 2018. In both the cases investigation completed. The case against the defacto complainant is pending for trial before the Subordinate Court cum Assistant Sessions Court, Ponneri in S.C.No.123 of 2020. The case against the petitioner is pending before the Judicial Magistrate-I, Ponneri, in S.T.C.No.225 of 2022. He fairly submitted that both the cases are case in counter and it would be proper if both the cases are tried together.

5.As it is a case in counter registered in respect of the same incident, this Court is not inclined to quash the Final Report. It is to noted that the present case in S.T.C.No.225 of 2022 and the counter case in S.C.No.123 of



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2022 are pending in different Courts.

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6. In view of above, S.T.C.No.225 of 2022 is hereby transferred to the file of Subordinate Court cum Assistant Sessions Court, Ponneri. The learned Subordinate Court cum Assistant Sessions Court, Ponneri to try S.T.C.No.225 of 2022 along with S.C.No.123 of 2020, but conduct separate trials and dispose of both the cases one by one simultaneously and not influenced by the evidence of other case and each case has to be disposed of on its own merits.

7. With the above observations, this Criminal Original Petition is disposed of.

22.06.2023

Index : Yes/No

Internet : Yes/No

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M.NIRMAL KUMAR, J.

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To

- 1.The Inspector of Police,
Ponneri Police Station,
Ponneri, Thiruvallur.
- 2.The Deputy Superintendent of Police,
District Crime Branch,
Thiruvallur.
- 3.The Public Prosecutor,
High Court, Madras.

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