



Crl OP No. 31795 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Criminal Original Petition No. 31795 of 2019
and
Crl.M.P. Nos. 17421 and 17410 of 2019**

J. Sathiyamoorthy

... Petitioner

Versus

**1. State Represented by
The Inspector of Police
P-6, Kodungaiyur Police Station,
Chennai – 600 118.
(Crime No. 993 / 2018)**

2. Anbarasu

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C. No. 7030 of 2018, pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai and quash the same.

For petitioner : Mr. K. Balasubramaniam.

**For Respondents : Mr. S. Balaji,
Government Advocate (Crl.Side) for R1.**



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No appearance for R2.

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ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 7030 of 2018 for the offence under Sections 341, 294(b), 323 & 506 (i) of the Indian Penal Code.

2. It is alleged in the final report that on 27.07.2018 at about 6 pm, due to prior enmity, the petitioner had attacked and caused hurt on the defacto complainant. It is further alleged that six months prior to the occurrence, the defacto complainant had caused damage to the two wheeler of the petitioner while off loading certain building materials. He had agreed to pay Rs.1000/- to the petitioner and since he had not paid the said amount, the petitioner had abused him using filthy language and caused hurt.

3. The learned counsel for the petitioner submitted that the entire case is false and motivated and in fact, the petitioner is the victim. He had suffered damages on account of the defacto complainant's conduct. He had been refusing to pay the compensation agreed to be paid by him. Though summons was issued to the defacto complainant and other



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witnesses, they have not appeared before the trial Court to give evidence and the case is pending from the year 2018 onwards. Since the case is false and motivated, he prayed for quashing the final report.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that there are allegations in the impugned final report. The defacto complainant had taken treatment in M/s.Stanley Hospital and was treated as inpatient for four days. The doctor had given a certificate stating that he had suffered simple injury. Since there is a *prima facie* material viz., the medical evidence which corroborates the statement of the victim, the matter has to be adjudicated only in a trial.

5. Though notice was sent to the second respondent, it has been returned with an endorsement 'left without instruction'.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the records.

7. This Court on perusal of the impugned final report finds that



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the defacto complainant, admittedly, had not paid money to the petitioner. The allegations in the impugned final report have to be adjudicated by the trial Court since the points raised by the learned counsel are factual in nature. However there is force in the submissions of the learned counsel for the petitioner that no progress has taken place in the trial, though the charge sheet was filed in the year 2018. It appears that the defacto complainant and other witnesses have not appeared before the trial Court and inspite of service of summons. It is reported that List Witness No.1 / defacto complainant could not be served. Though summons were served on List Witness No.2 and List Witness No.3, they have not appeared before the trial Court and witness warrant is pending against them.

8. The petitioner cannot be made to suffer for the non-appearance of the witness. In such view of the matter, this Court is of the view that in the interest of justice, the learned X Metropolitan Magistrate, Egmore, Chennai may be directed to expedite the trial in C.C. No. 7030 of 2018 and in any event, conclude it within a period of three months from the date of receipt of a copy of this order. The prosecution may dispense with the examination of the witness if they cannot be secured



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inspite of best efforts, and co-operate in the expeditious disposal of the trial.

9. Accordingly, this Criminal Original Petition is disposed of.

Consequently, the connected Miscellaneous Petitions are closed.

13.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police
P-6, Kodungaiyur Police Station,
Chennai – 600 118.
2. The X Metropolitan Magistrate,
Egmore, Chennai.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J

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