



Crl.O.P.No.12 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HON'BLE Mr.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12 of 2023

and

Crl.M.P.No.19 of 2023

Karunakaran

... Petitioners

-Vs.-

1.State rep by
Sub Inspector of Police,
Kiliyanur Police Station,
Kiliyanur, Vanur Taluk,
Villupuram District.

2.Murali.

.. Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records of FIR filed in Cr.No.345 of 2022 pending on the file of the first respondent and quash the same.



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For Petitioner :Mr.M.Anandaraj

For Respondents :Mr.S.Santhosh,
Government Advocate (Criminal side)
for R1

ORDER

This Criminal Original Petition has been filed to call for the records of FIR filed in Cr.No.345 of 2022 pending on the file of the first respondent and quash the same.

2. The learned counsel for the petitioner submitted that the petitioner is an Advocate. He was in Chennai on 12.12.2022 and appeared before the VI Metropolitan Magistrate Court, Egmore, Chennai. However, a false case is foisted against the petitioner in Crime No.345 of 2022 for the offences under Sections 147, 148, 294(b), 323, 324, 427 and 506(ii) IPC by the Kiliyanoor Police Station alleging that the petitioner along with other accused in this case formed an unlawful assembly and committed physical violence against the *de facto* complainant and other victims in that case. There are also allegations of damaging the property



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worth about Rs.1,00,000/-.

3. The learned counsel for the petitioner further submitted that the petitioner had also filed Section 317 CrPC petition in E.O.C.C.No.849 of 2022 on the same day i.e., 12.12.2022 and therefore, when the petitioner had appeared before the Courts at Chennai, it is highly impossible for him to be present at the scene of occurrence and involved in the alleged offence. He also submitted that the petitioner sent a representation to the learned Chief Metropolitan Magistrate to preserve CCTV footage to show that he appeared before this Court and was physically present at Chennai. Therefore, he submitted that the FIR has to be quashed.

4. The learned Government Advocate (Criminal side) submitted that the investigation in this case is pending. The *de facto* complainant and four others were injured.

5. Considered the rival submissions made by the learned counsel



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for the petitioner and the learned Government Advocate (Criminal side) and perused the materials available on records.

6. In view of the specific allegations, on a perusal of the FIR, it is made clear that the petitioner was also one of the members of unlawful assembly and involved in occurrence narrated in the FIR in Crime No.345 of 2020. On considering the submission of the learned counsel for the petitioner that the petitioner was present in Chennai and appeared before the Courts at Chennai on the date of occurrence on 12.12.2022, this Court directs the respondent-police to consider the petitioner's claim of alibi, that is, his presence at Chennai and his appearance before the Metropolitan Magistrate Court at Chennai, during the course of investigation. If the petitioner's claim is found to be true, it goes without saying that the petitioner could not be prosecuted. Therefore the respondent-police is directed to consider the claim of alibi made by the petitioner and file appropriate final report before the concerned Court.



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7. Accordingly, with the above directions, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is also closed.

05.01.2023

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa

To

1.The Sub Inspector of Police,
Kiliyanur Police Station,
Kiliyanur, Vanur Taluk,
Villupuram District.

2.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN.J.,

nsa

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