



*Crl.R.C.No.230 of 2023
and Crl.M.P.No.1855, 1856 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

**Crl.R.C.No.230 of 2023
and Crl.M.P.No.1855, 1856 of 2023**

P.Marimuthu

... Petitioner

Vs.

The State Rep. by
the Inspector of Police,
Nallipalayam Police Station,
Namakkal.
Crime No.211 of 2017

... Respondent

Prayer: The Criminal Revision Case is filed under Section 397 and 401 of Criminal Procedure Code to set aside the order dated 13.12.2022 passed by the Judicial Magistrate No.I, Namakkal, in C.M.P.No.4530 of 2022 in C.C.No.438 of 2018 in Crime No.211 of 2017 on the file of the respondent police.

For Petitioner : Mr.R.K.Arjunraj
for M/s.Premikha

For Respondent : Mr.V.Meganathan
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case has been filed to set aside the order dated 13.12.2022 passed by the learned Judicial Magistrate No.I, Namakkal, in C.M.P.No.4530 of 2022 in C.C.No.438 of 2018.

2. The case of the petitioner in brief, is as follows.

The petitioner is a practicing advocate for more than 28 years and having many juniors. The de-facto complainant namely Tamiharasan, threatened the petitioner and assaulted him and hence, he gave a complaint to the respondent police and it was registered as Crime No.210/2017 for the offences punishable under Section 448, 323, 506(i) IPC. The de-facto complainant has also lodged a counter case and it was registered in Crime No.211/2017 against the petitioner herein for offences punishable under Sections 294(b), 323, 506(i) IPC. After investigation, the investigating officer filed charge sheets in both the cases and the same were taken on file as C.C.No.437/2018 and C.C.No.438/2018 respectively by the learned Judicial Magistrate No.1, Namakkal. The petitioner filed a petition in CMP No.4530/2022 to discharge the petitioner from the case in C.C.No.438 of 2018 and the same was dismissed by the learned Magistrate, vide order dated 13.12.2022. Challenging the above said order, this Criminal Revision Case



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has been filed.

3. The learned counsel for the petitioner submitted that the petitioner is a practicing Advocate in Namakkal District for more than 28 years and he is having many juniors. He further submitted that, the respondent police has not enquired the matter properly and filed the charge sheets immediately in both the cases in Crime No.210/2017 and 211/2017, accusing the petitioner and it was taken on file as C.C.No.437/2019 and C.C.No.438/2017. The petitioner filed a discharge petition before the Magistrate, to discharge him from the case in C.C.No.438/2019, however, without considering the documents in proper perspective, the learned Magistrate has dismissed the petition. He further submitted that the wound certificate itself clearly speaks about the grievous injuries sustained by the petitioner , on the other hand, the de-facto complainant not sustained injury. He also submitted that, the learned Judge has not considered the facts and circumstances of the case and has passed order in a stereotyped manner and hence, the impugned order is liable to be set aside and the petitioner may be discharged from the case in C.C.No438/2018.



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4. The learned Government Advocate (Crl.Side) submitted that, the respondent police registered a case in crime No.210/2017, upon receiving the complaint from the petitioner herein; and also registered a counter case in Crime No.211/2017, upon receiving the complaint from the de-facto complainant. Further, the investigating officer filed charge sheets in both the cases and the same were taken on file as C.C.No.437/2018 and C.C.No.438/2018 respectively and the learned Magistrate is trying both the cases simultaneously and now examining the prosecution witnesses. He also submitted that, already the petitioner filed a petition in Crl.O.P.No.10612/2019 to quash the proceedings in C.C.No.438/2018 and the same was dismissed this Court on 13.12.2022. In such circumstances, this Criminal Revision Case is not maintainable and hence, pleaded to dismiss the case.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Sie) appearing for the respondent and perused the materials on record.

6. A perusal of the records shows that a case in Crime No.210/2017 was registered, based on the complaint received from the petitioner against the de-facto complainant for the offence under Sections 448, 423 and 506(i)



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IPC; and a case in Crime No.211/2017 was registered based on the counter complaint received from the de-facto complainant against the petitioner for the offence punishable under Sections 294(b), 323 and 506(ii) IPC. In both the cases, charge sheets filed and the same were taken on file as C.C.No.437/2018 and C.C.No.438/2018 respectively. It is reported by the learned Government Advocate(Crl.Side) appearing for the respondent that, the learned Magistrate is trying both the cases simultaneously and Trial is going on. Further, it is to be noted that, already the petitioner herein filed a petition Crl.O.P.No.10612/2019 before this Court to quash the proceedings in C.C.No.438/2018, which is prosecuted against the petitioner in Crime No.211/2017 and it was dismissed, vide order dated 13.12.2022. The learned Magistrate has also mentioned the above dismissal order in his order and the learned counsel for the petitioner has not denied the above fact. In such circumstances, this Court is of the view that, the present Criminal Revision Case, seeking similar prayer sought for in Crl.O.P.No.10612/ 2019, which was already dismissed by this Court, is not maintainable and hence, the order passed by the learned Magistrate does not warrant any interference by this Court.



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7. At this juncture, the learned counsel for the petitioner submitted that, the petitioner is a Senior practicing Advocate in the Court and hence, his personal appearance in C.C.No.438/2018 before the learned Judicial Magistrate No.1, Namakkal may be dispensed with.

8. Considering the submission made by the learned counsel for the petitioner, personal appearance of the petitioner in C.C.No.438/2018 before the Trial Court is dispensed with, on condition that, the petitioner shall appear before the Trial Court, whenever required by the Trial Court or for further proceedings.

9. Accordingly, the Criminal Revision Case is dismissed and consequently Crl.M.P.No.1855 of 2023 is closed. The petition in Crl.M.P.No.1856 of 2023 (petition to dispense with) is allowed of with the above direction.

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To

1. The Judicial Magistrate No.I, Namakkal.
2. The Inspector of Police,
Nallipalayam Police Station, Namakkal.
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

mst

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