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Crl.O.P.No.32633 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.32633 of 2019 and
Crl.M.P.Nos.17994 & 17996 of 2019

Maheswari

... Petitioner

Vs.

Tamilarasan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.84 of 2019 on the file of the Learned District Munsif-cum-Judicial Magistrate Court, Sendurai and quash the same.

For Petitioner : Mr.J.Antony Jesu Raja for
M/s.V.Selvaerumal

For Respondent : Mr.K.Balu

ORDER

This petition is filed to quash the final report in C.C.No.84 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate Court, Sendurai for the offences under Sections 217, 294(b), 324, 506(i) IPC.



2. It is alleged in the complaint that the petitioner was working as an

Executive Officer, Senthurai Sivan Temple wherein the complainant and his wife were working as cooks on daily wage basis. As per the complaint, the petitioner had not paid salary to the complainant. Instead, the petitioner had employed another person in the place of complainant and when he questioned, the first accused instigated the second and third accused to attack the complainant. It is the case of the complainant that he was admitted in the hospital. After discharge, he had given a complaint to the police. He also sent a report to the Superintendent of Police on 13.04.2018. Since there was no action taken against them, he had preferred the private complaint against the petitioner and two others.

3. Learned counsel for the petitioner would submit that the impugned complaint is an after-thought and a counter blast to the complaint given by the petitioner against the respondent on 12.02.2018 which was registered on 02.03.2018 in Crime No.52 of 2018 for the offences under Sections 294(b), 353, 506(ii)IPC; that this has been admitted by the complainant in the impugned complaint; that the complainant has not produced any document to show that he had approached the police immediately after the occurrence; that



the document filed in support of the complainant is the wound certificate which shows that the injuries are simple in nature; that this does not support the case of the complainant in any manner; that complainant's version that since he was admitted in the hospital, he could not approach the police is false; and the impugned complaint is an abuse of process of law and serves to be quashed.

4. The learned counsel for the respondent would submit that he was injured in the occurrence; that the other accused attacked him on the instigation of the petitioner and that the complaint discloses the offences; that he could not give the complaint to police immediately as he was hospitalised; and that the police did not register the case because the petitioner was influential and prayed for dismissal of the quash petition.

5. This Court, on reading of the complaint finds that earlier there was dispute between the petitioner and the complaint as regards the payment of salary to him. Admittedly, an occurrence had taken place on 12.02.2018 in which an FIR in Cr.No.52 of 2018 has been registered against the complainant for the offences under Section 294(b), 353, 506(ii) IPC. The present complaint



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has been filed two months after the occurrence as a counter blast to the said FIR against him. There is no explanation for such delay. The only allegation against the petitioner is that she had instigated the other accused to attack the complainant. This allegation appears to be improbable and has been only made to counter the FIR against him. Further, the complainant has not produced any document to show that he had approached the police earlier. The impugned complaint against the petitioner is an afterthought to implicate the petitioner and hence an abuse of process of law. In view of the same, the complaint against the petitioner alone is quashed.

6. With the above observations, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

16.03.2023

Index: Yes/No

Speaking / Non Speaking Order

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To

1. The District Munsif-cum-Judicial Magistrate Court,
Sendurai

2. The Public Prosecutor,

High Court, Madras.



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SUNDER MOHAN, J

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