



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-12-2023

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl. OP No.27587 of 2023

Radhika Priyadharshini

... Petitioner/Defacto Complainant

Vs.

1.The State represented by,
The Inspector of Police,
Avinashi Police Station,
Tiruppur District.
(In Crime No.177 of 2023).

2.R.Loganathan

3.N.Somasundaram

4.P.Govindasamy Raja

... Respondents/Complainants



WEB COPY



Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records with regard to the Final Report filed in CC No.276 of 2023 on the file of the learned Judicial Magistrate, Avinashi and to set aside the order of cognizance same and consequently direct the first respondent to further investigate in Crime No.177 of 2023 and to file charge sheet.

For Petitioner : Mr.S.Bharanidharan

For Respondent-1 : Mr.Leonard Arul Joseph Selvam,
Government Advocate
(Criminal Side).

For Respondents-2 to 4 : Mr.V.Raghavachari,
Senior Counsel.

ORDER

The petitioner herein has alleging that though enough material available to prosecute the accused person for the offence punishable under Section 307 of IPC, since there was a petition under Section 482 seeking quashment of the same for the record regarding the Final Report filed in CC No.276 of 2023 on the file of Judicial Magistrate Court at Avinashi to set aside the order of cognizance taken by the learned Judicial Magistrate and direct the first respondent-police not to further investigate in Crime No.177 of 2023.



2. The contention of the petitioner is that pursuant to the property dispute, her family members and the private respondents 2 to 4 were inimical to each other but on the date of occurrence when they were passing through their land, they say strangers and when they got down and enquired them, they found that they are respondents 2 to 4 and they started attacking them. When they tried to unauthorisedly trespass the property through a car, they were chased in the case filed. The private respondents in their car dashed against against them and with an intention to cause death.

3. Though FIR was registered for the offence punishable under Section 307 of IPC, while filing Final Report the first respondent has dropped the Section 307 and the Trial Court has not taken note of the material available to frame charges under Section 307 of IPC.

4. Mr.V.Raghavachari, learned Senior Counsel appearing on behalf of the private respondents 2 to 4 submitted that the petitioner is only the tool and the real trespassers and the aggressors are the family members of defacto complainant and it was their car which was unauthorisedly driven into



the property of the private respondents. The respondent-police instead of prosecuting the family members of the petitioner, who are the aggressors had registered a case against these private respondents 2 to 4 and also arrested them pending investigation.

5. The learned Government Advocate (Criminal Side), appearing on behalf of the first respondent-police submitted that from the material collected in the course of investigation, the aggressors and the offenders are the respondents 2 to 4. However, the material did not disclose any *mens rea* to cause death of the petitioner and other occupants in the car. Therefore, Section 307 of IPC was dropped and alternation report filed.

6. The learned counsels appearing on behalf of either side, reckon to canvass their respective submissions attempt to justify their act by placing the title documents.

7. This Court is not supposed to conduct mini trial in the quash petition. Both the complainant and the accused are not satisfied with the Final Report filed. The Trial Court which has taken cognizance of the offence has the



advantage of perusing the statements of the witnesses and the evidence collected during the course of investigation and other material objects.

Therefore, it is open to the Trial Court to consider the documents filed and take decision regarding the charges to be framed and if necessary order for further investigation.

8. With the abovesaid observations, the present Criminal Original Petition stands disposed of.

15-12-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

- 1.The Judicial Magistrate,
Avinashi.
- 2.The Inspector of Police,
Avinashi Police Station,
Tiruppur District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY

Crl.OP No.27587 of 2



DR.G.JAYACHANDRAN, J.

Svn

Crl. OP 27587 of 2023

15-12-2023