

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.03.2023

Delivered on : **21.03.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.4323 of 2020

1.Mahendran

2.Selvaraj

... Petitioners /Accused Nos.2 & 4

Vs.

1.The State represented by

The Inspector of Police,

C3, S.S. Clolony Police Station (L&O),

Madurai City.

In Crime No.656 of 2016 ... 1st respondent / Complainant

2.P.Ramesh

... 2nd respondent /defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in the final report in P.R.C.No.360 of 2019, on the file of the Judicial Magistrate No.V, Madurai and to quash the same as against the petitioners.

For Petitioners : Mr.M.Ramu

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (CrI.Side) for R1

: Ramsundarvijayraj
for M/s/Veera Associates for R2

ORDER

This petition is filed to quash the final report in P.R.C.No.360 of 2019, on the file of the Judicial Magistrate No.V, Madurai.

2. The case of the prosecution is that on 07.06.2016, at about 6.00 pm., on the instigation of the first accused, the petitioners herein were issuing pamphlets against the victim's boss. When the same was questioned, three persons attacked him and they damaged his car and they caused damage to the worth of Rs.25,952/- and a case in Crime No.656 of 2016 was registered against the petitioners and after investigation, a final report was filed before the Judicial Magistrate No.V, Madurai and the same was taken on file as P.R.C.No.360 of 2019.

3. On the side of the petitioners, it is stated that only because the petitioners are the friends of the first accused, they were roped in to the false case. There was no piece of document to show that the petitioners involved in the alleged occurrence. In the complaint dated 08.06.2016 and in the 161 statement recorded on 08.06.2016 and in the further 161 statement recorded on 26.10.2017, the name of the petitioners were not mentioned any where. Only based on an alleged confession statement of the first accused, the petitioners are roped into the case, even the alleged confession statement was not signed by the first accused and they prayed the proceedings in P.R.C.No.360 of 2019 on the file of the Judicial Magistrate No.V, Madrurai, against the petitioners is to be quashed.

4. On the side of the prosecution, it is stated that on the confession of the first accused, which was recorded in the presence of two witnesses, the petitioners were impleaded in the case. The first accused is an adjoining land owner, the first accused dashed his car inside the hotel and he caused injury to the general public. All the petitioners used the name of the first accused when they indulged in the offence and prayed the petition to be dismissed.

5. On the side of the defacto complainant, it is stated that the first accused and the defacto complainant are neighbours, the defacto complainant is running a Hotel. There is a land dispute between the first accused and the defacto complainant. Due to the land dispute, the first accused already dashed a car inside the hotel and thereby, caused injury to twenty persons. The petitioners are hooligans, engaged by the first accused and they threatened the public and prayed the petition to be dismissed.

6. A perusal of the records reveals that in the complaint and in the 161 statements recorded by the Police, the name of the petitioners did not find place. The Witnesses gave statements that they can identify the accused. The case of the prosecution is that the first accused was arrested and a confession statement was recorded, wherein, he has mentioned the name of the petitioners. The further case of the prosecution is that the first accused refused to sign the confession statement.

7. It is seen that when the name of the petitioners was not in the F.I.R and in other records, the petitioners obtained anticipatory bail.

In the 161 statement, it was mentioned that the witnesses can identify the accused. Only after the completion of the trial, it can be decided whether the witness can identify the petitioners and whether the petitioners involved in the offence and it is decided that this case require a trial. Hence, this Petition is dismissed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

21.03.2023

To

- 1.The Judicial Magistrate No.V,
Madurai.
- 2.The Inspector of Police,
C3, S.S. Clolony Police Station (L&O),
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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R.THARANI. J.

Ls

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