



Crl.O.P.(MD)No.7368 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **16.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD) No.7368 of 2022

1.Surya

2.Anand

... Petitioners/Accused Nos.2 & 3

Vs.

1.The State rep.

The Inspector of Police,
Chekkanurani Police Station,
Madurai District.

(Crime No.327 of 2021) ... 1st Respondent/Complainant

2.Sekar

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the First Information Report in Crime No.327 of 2021 on the file of the 1st respondent police and quash the same as illegal as against the petitioner is concerned.

For petitioner : Mr.A.Rajini

For Respondents : Mr.S.Manikandan for R1
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed to quash the First Information Report in Crime No.327 of 2021 on the file of the 1st



respondent police.

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2.The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that on 26.08.2021 at about 07.00 a.m., he was standing in front of his house and at that time, one Chinnathai, who is the wife of Mandayan @ Muthu abused him in filthy language. But, he did not listened to that abuse. Again on 29.08.2021 at about 06.00 a.m., he along with his son, was grassing the cattle. At that time, the above said Mandayan along with one Jeyakumar, Surya, Anand, came in a two wheeler and abused them in filthy language. One of the accused namely Jeyakumar kicked his son and other two accused, criminally intimidated them. On the basis of the above said occurrence and complaint, case was registered in Crime No. 327 of 2021 and after completing the investigation process, final report was filed deleting the above said Jeyakumar from the final report stating that he is not involved in the above said occurrence. The final report was filed through e-filing process on 19.07.2022, whether it has been taken cognizance or not is not available on record.

3.Seeking quashment of the criminal proceedings against accused

Nos.2 and 3, this petition has been filed on the ground that even as per



the case of the defacto complainant and the prosecution only the above said Jeyakumar alleged to have kicked the son of the defacto complainant. But, he was deleted from the charge, finding that he was not available in the place of occurrence. When the prime accused himself has been deleted, finding that he was not available in the occurrence place itself, this case is a false one, which was initiated out of previous motive, that will be extended to these petitioners also.

4.Even though the second respondent has been served none appears on behalf of him.

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

6.CD file has been called for and perused. From the perusal of the CD file, it is seen that the brother of the accused was murdered, in which, the defacto complainant and others were arrayed as accused. That crime was registered in Crime No.2058 of 2020 under Sections 147, 148, 149, 302 IPC r/w 32 (5) of SC/ST Act. As a consequence to the above said only, this present occurrence said to have been taken place. During the course of investigation, it was found that the above said Jeyakumar was



not attending the refugee camp for Srilankans in Dindigul. It was found to be true during the course of investigation. So, his name was deleted.

He alleged to have caused the kick to the defacto complainant's son. So this shows that out of previous enmity, with malafide intention, the above said Jeyakumar has also been falsely implicated. So when false implication has been made, the question which arises for consideration is whether the entire occurrence can be doubted by this Court.

7.No doubt, the entire occurrence cannot be doubted on the false implication of the above said Jeyakumar. So far as the allegations against this petitioner is concerned, he alleged to have criminally intimidated the defacto complainant and his son with dire consequences, by showing iron rod. Whether this bald allegation will attract the ingredients of Section 503 of IPC is a matter for consideration. No where, it has been stated by the defacto complainant and his son that because of the above said criminal intimidation, they entertained fear and life threat. Mere words will not attract the ingredients as it has been set out in number of judgments. Moreover, as stated above with malafide intention only due to the previous enmity such a complaint has been given. When we approach the allegation against this petitioner, in the light of the above said malafide intention, then this Court can safely conclude that this has been



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given exaggeration by the complainant. So, in the point of malafide exercise of right and on the ground of the ingredients of offence under Section 506(ii) IPC is not attracted, this petition is liable to be allowed.

8. Accordingly, this criminal original petition is allowed. The First Information Report in Crime No.327 of 2021 on the file of the 1st respondent police, is hereby quashed.

16.03.2023

Index : Yes/No
Internet : Yes/No
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To

1. The Inspector of Police,
Chekkanurani Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVA. J.

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