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Crl.O.P.(MD).No.712 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.712 of 2021
and
Crl.M.P(MD) Nos.319 and 321 of 2021

1. Suresh

2. Selvam

... Petitioners

Vs.

1. The Deputy Superintendent of Police
Muthupettai Sub Division
Muthupettai,
Tiruvarur District

2. The Inspector of Police
Edaiyur Police Station,
Tiruvarur District

3. A.Ramesh

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet filed in S.S.C. No.67 of 2019 on the file of the I Additional District and Sessions Court(Special Court for SC/ST Cases, PCR) Thanjavur and quash the same.

For Petitioner : Mr.D.Srinivasaragavan

For R.1& R2 : Mr.M.Sakthikumar
Government Advocate(Crl.Side)

For R-3 : Mr.R.J.Karthick



ORDER

This Criminal Original Petition has been filed to quash the proceedings in charge sheet filed in S.S.C. No.67 of 2019 on the file of the I Additional District and Sessions Court(Special Court for SC/ST Cases, PCT) Thanjavur.

2. According to the petitioner the complainant lodged complaint on 11.10.2018 stating that at about 17.30 hrs he was doing agricultural work in his village and he was crafting in his land and applied the chemical and fertilized in his land. At that time the defacto complainant questioned about the petitioner, suddenly the first petitioner Suresh beaten him and attacked him with hands and the second accused also attacked the defacto complainant. The first petitioner also threatened him with aruval. The said Suresh and Selvam belongs to upper caste and the second respondent belongs to scheduled caste community. Hence he gave complaint before the second respondent and the same was registered in Crime No.132 of 2018 for the offences under Sections 323,341,506(ii) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST(PoA) Amendment Act.2015. Thereafter the respondent investigated the case and filed final report and the same was taken on file in S.S.C. No.67 of 2019 by the I Additional District and Sessions Court(Special Court for SC/ST Cases, PCT) Thanjavur. Infact P.W.1 is a complainant,P.W.2 to P.W.5 are eye witnesses and the said eye witnesses



all are relatives of P.W.1 and they made statements under Section 161(3) of Cr.P.C all are stating the same statement. There are contradictions between the prosecution witness in respect of the statement recorded under Section 161(3) of Cr.P.C. Even according to the prosecution case at the time of occurrence he was attacked with aruval and the first petitioner sustained severe blood injuries but the investigation officer failed to register case against the defacto complainant. The defacto complainant has given complaint only to safeguard him. There is a civil dispute pending between the parties and there is no public view to constitute the offence under the SC/ST Act and there is no material available to proceed as against this petitioner and thereby the sessions case is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would submit that the third respondent has given complaint before the second respondent and the second respondent has registered a case in Crime No.132 of 2018 for the offences under Sections 323,341,506(ii) of IPC and Section 3(1)(r), 3(1)(s), 3(2)(va) SC/ST(PoA) Amendment Act.2015. There is a civil dispute pending between the parties. Infact these petitioners sustained severe injuries due to the assault made by the defacto complainant and only to escape from that case he filed this



counter case and no such occurrence has happened as alleged by the third respondent. The first respondent without proper investigation filed final report and even according to final report no ingredients made out to constitute the offence under SC/ST (PoA) Act. The defacto complainant did not sustain any injuries and he has not cooperated with the doctor at the time of admission in the hospital and even according to the prosecution case the alleged occurrence was not taken place in the public view. The defacto complainant is the aggressor and the petitioners already sustained injuries on the hands of the defacto complainant and therefore no case is made out as against these petitioners, thereby the sessions case is liable to be quashed.

5. The learned counsel appearing for the third respondent would contend that the petitioners and others abused the third respondent using the community name of the third respondent and also assaulted him and thereby he sustained injuries and thereafter he gave complaint before the second respondent and the first respondent investigated the case and filed final report. As per the final report the eye witnesses have stated about the involvement of the accused and the manner in which they committed the offence. Further civil dispute is also pending between the parties. Counter case is also pending before the Sessions Court, Thiruvavarur. As per the investigation *prima facie* case is made out hence at this stage this petition is liable to be dismissed.



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6. The learned Government Advocate(Crl.Side) appearing for the respondents 1 and 2 would submit that civil dispute is pending between the parties. Already the the defacto complainant filed civil suit before the civil Court and got injunction order, inspite of that they entered into the land and thereby the occurrence was happened. There is a counter case also registered as against the defacto complainant. As against the defacto complainant Sessions case in S.C. No.44of 2022 is pending on the file of the learned Principal District Judge, Thiruvarur and thereby this petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. According to the petitioner there is a civil dispute pending between the petitioner and the second respondent. It is admitted fact that due to civil dispute both parties quarrelled with each other and cases were registered as against both parties and counter case is also pending. On perusal of the First Information Report as well as final report there are prima facie materials available to proceed with the case. Further the offences are grave in nature and there is a counter case also pending and thereby at this stage this Court cannot invoke the power under Section 482 of Cr.P.C to quash the sessions case. The



petitioner is at liberty to approach the trial Court for filing discharge petition if *prima facie* offences are not made out as against the petitioners. So far as case and case in counter is concerned one case is pending before the PCR Court Thanjavur and counter case is pending before the learned Principal District Judge, Thiruvarur in S.C. No.44 of 2022. Since Thiruvarur District comes under the jurisdiction of the Principal Seat any one of the parties can approach the Principal Bench of this Court for transfer of cases for simultaneous trial as per the procedure laid down by the Hon'ble Supreme Court in the case of ***Nathi Lal and other Vs. State of U.P and another*** reported in ***1990 (Supp) SCC 145***

9. At this juncture, the learned counsel appearing for the petitioner represented before this Court that the personal appearance of the petitioner before the trial Court may be dispensed with.

10. As far as dispensing with the personal appearance of the petitioner before the trial Court is concerned, it can only be decided by the trial Court on application filed by the petitioner. On such application, the trial Court is directed to consider the same in accordance with law. All the grounds raised by the petitioner in this petition can be agitated before the trial Court.



Crl.O.P.(MD).No.712 of 2021

WEB COPY

11. With the above observation and direction, this Criminal Original Petition is disposed of. Consequently connected miscellaneous petitions are closed.

11.08.2023

Index : Yes / No

Internet : Yes / No

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To

1. The I Additional District and Sessions Court
(Special Court for SC/ST Cases, PCR) Thanjavur
2. The Deputy Superintendent of Police
Muthupettai Sub Division
Muthupettai,
Tiruvarur District
3. The Inspector of Police
Edaiyur Police Station,
Tiruvarur District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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