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Crl.O.P.(MD)No.18637 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 31/10/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.18637 of 2023

and

Crl.MP(MD)Nos.14706 and 14707 of 2023

Malaieswaran : Petitioner/A4

Vs.

1.The State rep. by
The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai District.
(Crime No.56 of 20220 : R1/Complainant

2.Amsavalli : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in PRC No.17 of 2022 on the file of the Principal District Munsif-cum-Judicial Magistrate Court, Thiruppathur, Sivagangai District and to quash the same as against the petitioner and pass such any or other orders.

For Petitioner : Mr.R.L.Dhilipan Pandian
for Mr.P.Saravanan

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in PRC No.17 of 2022 on the file of the District Munsif-cum-Judicial Magistrate Court, Thiruppathur, Sivagangai District.

2.The case of the prosecution in brief:-

On 02/05/2022 at about 08.00 pm, when the de-facto complainant's namely Rajapandi was standing in front of his house, at that time, one Arun Pandi and Prasath along with some unknown persons was brought by one Karmegan, identified the husband of the de-facto complainant. The above said persons picked up quarrel stating that her husband is not repaying the money borrowed from one Selvi. They caused assault with aruval and sword. When the mother-in-law and the de-facto complainant and others intervened, the above said persons fled away from the place of occurrence after making criminal intimidation. The injured was admitted in the hospital, where the statement was recorded. Based upon the occurrence, a case in Crime No.56 of 2022 was registered for the offences under sections 147, 148, 294(b), 307, 506(2), 149 and 109 IPC. After completing the process of investigation, charge sheet was filed and it was taken cognizance in PRC



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No.17 of 2022 by the Principal District Munsif-cum-Judicial Magistrate, Thiruppathur, Sivagangai.

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3.During the course of investigation, this petitioner's involvement also came to light. It was found that the injured was running a car lending business having illegal intimacy with A5 namely Selvi. During the above said intimacy, there was money transaction between them. Because of the above said money transaction, frequent trouble arose between them. A3 is the brother of A5. He used to make a compromise. The issue was intimated to A1 and A2, who are the relatives of A5. They also threatened the injured to return the money. In pursuance of the above said issue, on the date of the occurrence, A1, A2, A7 and A8 caused severe injuries. A3, A4, A5 and A6 were not present in the place of occurrence. It was found that only at the instigation and abetment, the above said gruesome attack was made.

4.Seeking quashment of the criminal proceedings against this petitioner namely A4, this petition has been filed on the ground that except the confession statement of the co-accused, no sufficient material is available to implicate this petitioner, who was not present in the place of occurrence.



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5.Heard both sides.

6.Except the above said said factual ground, no other material has been placed by the petitioner to quash the proceedings. As stated above, there was enmity between A5 and the injured over the money transaction issue. In view of the above said process of issue, all the co-accused intervened. So far as this petitioner namely Malaieswaran is concerned, it is stated that he is the brother of A5. He was also involved in the above said issue.

7.Whether there was any instigation or abetment to commit the gruesome attack cannot be a matter for consideration by this court sitting or exercising the jurisdiction under section 482 Cr.P.C. These are the factual ground, which got to be tried to its logical conclusion.

8.For the offence under section 109 IPC, it is not necessary that the concerned person or the accused person as the case may be, must be present in the place of occurrence. Abetment can be made from any place, anywhere in the world. So the ground on which, this petition came to be filed is not sustainable.



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9.What are the offences attracted against the petitioner is a matter for consideration by the trial court at the time of framing of charges. This court need not be carried away by the offences mentioned in the final report. So, I find no reason to entertain this petition.

10.In the result, this criminal original petition stands **dismissed**. However, the personal appearance of the petitioner is dispensed with before the trial court on condition that he shall appear before the concerned trial court namely the Principal District Munsif-cum-Judicial Magistrate Court, Thiruppathur, Sivagangai District within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by affixing his recent passport size photograph, to the effect that he will appear before the trial Court as and when required and must ensure his proper representation through Advocate. Accordingly, Crl.MP(MD)No.14707 of 2023 is allowed. Consequently, connected Crl.MP(MD)No.14706 of 2023 is closed.

31/10/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Principal District Munsif-cum-Judicial Magistrate,
Thiruppathur,
Sivagangai District.
- 2.The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai district.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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