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CrI.OP.No.703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.703 of 2023
and
CrI.M.P.Nos.371 and 374 of 2023

1.M.Appavu @ Bangaru Chettiar

2.M.Sivaraj

3.Thangavel

4.Anandkumar

... Petitioners

Vs.

K.G.Paramasivam

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to C.C.No.159 of 2022 on the file of the Judicial Magistrate No.II, Udumalpet, and quash the same.

For Petitioners : Mr.S.Prabhu

For Respondent : No appearance

ORDER

On receipt of summons from the Judicial Magistrate II, Udumalpet in connection with a private complaint filed by the respondent K.G.Paramasivam and taken on file in C.C.No.159 of 2022 the present



CrI.OP.No.703 of 2023

quash petition is filed.

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2. The learned counsel appearing for the petitioners submits that on 28.01.2022 there was a quarrel between the villagers and the respondent in connection with conducting the kumbabishekam of the village temple. In this connection, the complaint given by the petitioners to the police was not taken up for enquiry, whereas, the petition of the respondent was registered in CSR.No.25 of 2022 and closed on an undertaking given by the respondent that he will workout his remedy before the Court of law. In his petition there was no allegation of assault or abuse in filthy language or intimidation. However, after three months he has improved his complaint by way of application under Section 200 Cr.P.C and the learned Judicial Magistrate by following the procedure contemplated under law and on proper appreciation of the evidence available had caused summons to the petitioners. It is further submitted that after the three months of the incident, the private complaint has been engineered adding offence attracting Sections 293(b), 323 and 506(1) IPC.

3. The learned counsel for the petitioner submitted that in order to take control of the administration of the temple, the respondent has



CrI.OP.No.703 of 2023

instituted the private complaint suppressing the actual incident. On the face of the complaint and the earlier petition given to the police on the day after the incident clearly shows the embellishment which requires interference.

4. The respondent was served with notice by post on 24.08.2023 and Court notice also served through the learned Judicial Magistrate II, Udumalpet. However, there is no representation in spite of printing the name of the respondent in the cause list.

5. The petition and the documents perused. In the impugned complaint the respondent alleges that the 1st and 2nd accused who are aged 62 and 70 years respectively directed the other accused to drive out the complainant from the meeting for questioning them regarding the accounts. Accordingly the 3rd and 4th accused lifted the complainant and placed him near the temple mandapam and attacked him repeatedly. While the 4th accused strangled his neck the nearby onlookers rescued the complainant. The wound certificate given by the Doctor at the Government Hospital, Udumalpet is relied by the complainant to substantiate his allegation regarding the offence under Section 323 IPC.



CrI.OP.No.703 of 2023

WEB COPY

6. A perusal of the discharge summary indicates that the petitioner was admitted on 28.01.2022 at 4.05 pm and got discharged on the next day. No external injuries was noted by the Doctor. Though it is alleged that he was assaulted, the place of injury or the place of attack is not found in the discharge summary. The CSR issued by the police in CSR.No.25 of 2022 indicates that it was received from the respondent on 29.01.2022 alleging wordy quarrel in the village meeting convened for the purpose of organizing the temple kumbabishekam. In this complaint there is no whisper about any attempted strangulation or repeated attack with hands and legs by the 3rd and 4th accused.

7. In fact, in this complaint the respondent has not even named the persons who had wordy quarrel with him. Therefore, as rightly pointed out by the learned counsel for the petitioners the private complaint under Section 200 Cr.P.C has been filed on 12.04.2022 after 70 days of the occurrence. As pointed out by the learned counsel for the petitioners, the learned Judicial Magistrate has taken cognizance and has not properly scrutinized the discharge summary with the complaint allegation. Further this Court from the notes paper also find that before causing summons to



CrI.OP.No.703 of 2023

the petitioners herein the Magistrate who has taken cognizance has not recorded the statement of the complainant.

8. The discharge summary issued by the Government Hospital clearly indicates that there is no external injury on the complainant. Since the complaint patently discloses exaggeration and embellishment without any supportive document for the alleged hurt caused by the petitioners/accused, the complaint deserve to be quashed and it is accordingly quashed.

9. The criminal original petition is accordingly **allowed** and C.C.No.150 of 2022 on the file of the learned Judicial Magistrate II, Udumalpet stands quashed. Consequently, the connected miscellaneous petitions are closed.

07.08.2024

dsa

Index : Yes/No

Internet : Yes/No

To

1. The Judicial Magistrate No.II,
Udumalpet.



Crl.OP.No.703 of 2023

2. The Public Prosecutor,
High Court of Madras,
Chennai – 104.



WEB COPY



CrI.OP.No.703 of 2023

Dr.G.JAYACHANDRAN,J.

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CrI.OP.No.703 of 2023

07.08.2024