



Crl.R.C.No.1472 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1472 of 2024

Jothirathinam

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Omalur Police Station,
Salem District.
(Crime No.1125/2020).

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, to set aside the order passed in Crl.M.P.No.3242 of 2023 by the Judicial Magistrate, Omalur, Salem dated 13.05.2024 by allowing this revision.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER



Crl.R.C.No.1472 of 2024

The petitioner lodged a complaint to the respondent Police on 18.09.2020 and an FIR in Crime No.1125 of 2020 was registered for offence under Sections 341, 294(b), 323 and 324 of IPC against three unknown persons. On conclusion of investigation examining eight witnesses and documents, the respondent Police closed the FIR as “Mistake of Fact” on 10.02.2021 and served RCS notice in No.30 of 2021 to the petitioner. Challenging the same, the petitioner filed protest petition in Crl.M.P.No.3242 of 2023 before the learned Judicial Magistrate, Omalur and the same was dismissed *vide* impugned order, dated 13.05.2024. Aggrieved over the same, the present criminal revision case is filed.

2.The learned counsel for the petitioner submitted that on receipt of intimation from the Government Hospital, Omalur, the respondent Police recorded the statement of the petitioner and registered the FIR. The complaint is that five years prior to the accident, the petitioner took loan from the bank and constructed house in the property assigned to him as per the family partition. This house was constructed by the petitioner but settled in the name of his wife. One and half years prior to the incident, the



petitioner and his wife due to some misunderstanding got separated. Six months prior to the incident, the maternal uncle of petitioner's wife picked up a quarrel and questioned him for not repaying loan amount. Thereafter, a complaint was lodged and the petitioner agreed to settle the loan. For the purpose of arranging money, on 16.09.2020, the petitioner had approached the financier Rathinam in his house and when he returned back to home at about 07.40 p.m in his TVS XL, three persons aged about 25 years restrained the petitioner, abused and attacked him. Due to which, the petitioner sustained injury. Despite the same, the respondent Police not conducted proper investigation and closed the case as “Mistake of Fact” and the Lower Court also failed to consider the protest petition. Hence, prays for setting aside the impugned order.

3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that on getting information from Omalur Government Hospital, the respondent Police recorded the statement of the petitioner, registered FIR and conducted investigation. In this case, seven witnesses examined of which LW1 is the petitioner/defacto



complainant, LW2 and LW3 are eye witnesses present near the scene of occurrence, LW5 and LW6 are Mahazar witnesses and LW6 is the Doctor.

On conclusion of investigation, the respondent Police found that the petitioner sustained injury in a road accident and to brook vengeance on his estranged wife and her family members, projected the case as though he was assaulted by them. The witnesses examined confirmed that the petitioner fell down from his vehicle, sustained injuries on his head but not assault by anyone. On considering the statement of witnesses and materials, the Trial Court accepted the closure report finding that except for the petitioner repeating the complaint by way of protest petition, no other materials produced. Hence, he prays for dismissal of the present revision.

4.Considering the rivals submissions and on perusal of the materials, this Court finds that closure report of the respondent Police and the impugned order are detailed one. Except for the petitioner making allegations against his wife and her family members, no other materials or evidence produced to show he was assaulted by them.



Crl.R.C.No.1472 of 2024

5.In view of the above, this Court is not inclined to interfere with the impugned order, dated 13.05.2024 in Crl.M.P.No.3242 of 2023 passed by the learned Judicial Magistrate, Omalur and the same is hereby confirmed. Accordingly, this criminal revision case stands dismissed.

6.It is not that the petitioner has without any remedy. The petitioner can file a private complaint before the concerned Court for his grievance if he so desires.

12.09.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

The Judicial Magistrate,
Omalur, Salem.



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Crl.R.C.No.1472 of 2024

M.NIRMAL KUMAR, J.

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Crl.R.C.No.1472 of 2024

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