



Crl.O.P.No.16274 of 2023

In the High Court of Judicature at Madras

Dated : 13.3.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.16274 of 2023
& Crl.M.P.Nos.10323 & 10325 of 2023

Yogesh

...Petitioner

Vs

1.The State rep.by
The Inspector of Police,
Taluk Police Station,
Erode.

2.Krishnaprasad

...Respondents

PETITION under Section 482 of the Criminal Procedure Code
praying to call for the records made in C.C.No.57 of 2022 pending
before the Judicial Magistrate No.1, Erode and quash the same.

For Petitioner	:	Mr.M.Rajkumar Franklin
For R1	:	Mr.A.Gopinath, GA (Crl.Side)
For R2	:	No appearance

ORDER

This is a petition filed by the petitioner seeking to quash the
records in C.C.No.57 of 2022 on the file of the Judicial Magistrate



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No.1, Erode.

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2. The case of the prosecution is that the second respondent, who is the defacto complainant and A1 are well acquainted with each other, that A1 requested the second respondent for financial assistance to the tune of Rs.30,000/-, that the second respondent was said to have refused the request made by her, that on 23.2.2021 at 10 AM, when the second respondent visited A1 based on her phone call, A1 along with the other accused abused the second respondent in filthy language and that they slapped her in her cheek and forced the second respondent to pay money.

3. Based on the complaint given by the second respondent, a first information report came to be registered in Crime No.121 of 2021. On completion of the investigation, a final report was filed before the Court below and the same was taken on file in C.C.No.57 of 2022. The Court below took cognizance of the case under Sections 147, 341, 294(b), 352, 387 and 506(i) of the Indian Penal Code. The petitioner has been arrayed as A3 in this case.



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4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Though the second respondent has been served and his name printed in the cause list, there is no appearance either in person or through counsel.

5. On a careful reading of the contents of the final report and the statement that was recorded from P.W.1, who is the second respondent in this case - defacto complainant, it is seen that the second respondent and A1 are known to each other. A1 seems to have asked for a financial assistance, which was refused by the second respondent. As a result, it is alleged that the accused persons abused the second respondent, threatened him and attempted to extort money from him.

6. In so far as the petitioner is concerned, he is said to be the friend of husband of A1. There are totally three witnesses, from whom, the statements under Section 161 of the Criminal Procedure Code (for short, the Code) have been recorded regarding the incident. They are : (i) the second respondent; (ii) one Mr.Thilagan (LW6) and



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(iii) One Mr.Kathirvel (LW7).

7. The learned counsel for the petitioner submits that the statements of the second respondent and the witnesses are totally unbelievable, that a pure and simple money transaction has been given a twist and exaggerated and that no such incident had taken place in this case and that is the reason as to why the second respondent did not even undergo treatment for the alleged attack made on him.

8. The grounds raised by the learned counsel for the petitioner are all factual in nature and they require appreciation of evidence. This Court cannot decide the same in exercise of its jurisdiction under Section 482 of the Code. The facts of this case and the grounds raised in this petition do not fall within the parameters laid down by the Apex Court in the case of ***State of Haryana Vs. Bhajanlal [reported in (1992) Supp. (1) SCC 335]***. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings



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pending before the Court below.

9. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner.

10. Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day they are examined in Chief. The petitioner shall be present before the Court below (i) at the time of questioning under Section 313 of the Code, (ii) at the time of passing of the final judgement and (iii) as and when required. The petitioner shall appear before the Court below and execute a bond under Section 88 of the Code.

11. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C. No.57 of 2022 within a period of six months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble



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Supreme Court in the case of **Vinod Kumar Vs State of Punjab** **[reported in 2015 (1) MLJ (Crl.) 288 SC]**. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh Vs. Shambhu Nath Singh [reported in JT 2001 (4) SC 3191]**. Consequently, connected miscellaneous petitions are also closed.

13.3.2024

To

1.The Judicial Magistrate No.1,
Erode.

2.The Inspector of Police,
Taluk Police Station,
Erode.

3.The Public Prosecutor,
High Court, Madras.

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