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Crl.R.C.No.1372 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1372 of 2024

and

Crl.MP.No.11686 of 2024

Sagadevan

... Petitioner

Vs.

Sub Inspector of Police,
Avinangudi Police Station,
Cuddalore District.

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 r/w 401Cr.P.C, praying to call for the records in connection with C.C.No.171/2019, on the file of Judicial Magistrate, Thittagudi, Cuddalore District and set aside the same as illegal and subsequently directing the Judicial magistrate, Thittagudi, Cuddalore District to appoint a Separate Public Prosecutor to conduct the trial in counter case to secure ends of justice.



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CrI.R.C.No.1372 of 2024

For Petitioner : Mr.M.Velmurugan

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

ORDER

The petitioner is the accused in C.C. No. 171 of 2019. He has filed CMP No. 380 of 2021 before the Judicial Magistrate, Titiagudi to appoint a separate Assistant Public Prosecutor for conducting the trial in C.C.No.171 of 2019. According to the petitioner/first accused, he is the defacto complainant in the case registered in Crime No.70 of 2019 in which charge sheet has been filed in C.C. No. 164 of 2019 against the Defacto complainant and others in the present case in Crime No. 69 of 2019. Both the cases are in the nature of case and case-in-counter. Hence, he prayed for appointment of a separate Assistant Public Prosecutor in the interest of justice.



Crl.R.C.No.1372 of 2024

WEB COPY

2. The Additional Public Prosecutor appearing for the respondent submitted that the date of occurrence for the case in Crime No.69 of 2019 is 10.08.2019 where as the date of occurrence for the case in Crime No. 70 of 2019 is 11.08.2019 that is next day after 11.05 hours but the parties in both the cases are one and same. The occurrence took place in the house of defacto complainant/petitioner herein, wherein the accused in the case in Crime No. 69 of 2019 have criminally trespassed into their house and attacked the inmates with knife and wooden log, hence complainant was lodged. After completion of the investigation charge sheet has been filed.

3. The petitioner is defacto complainant in crime No.70 of 2019 which was registered for the offence punishable under section 294 (b), 323, 324, 506 (i) IPC and a counter case has also been registered in crime No.69 of 2019, in which the petitioner is the first accused. The counter case in



Crl.R.C.No.1372 of 2024

WEB COPY

Crime No. 69 of 2019 was registered for the offence punishable under section 294(b), 323, 324 IPC. In these cases investigation has been completed and charge sheet also filed which were taken on file as C.C. No. 164 of 2019 and CC. No. 171 of 2019. In these cases the date of occurrence is 10.08.2019 and 11.08.2019, but the parties in these cases are one and the same, but, the date, time and place of occurrence are different. Hence it cannot be said to be a case in counter. He further submitted that the case in CC. No.171 of 2019 was posted for hearing on 27.08.2024 on which date, LW1 and LW2 will be examined. As regards the case in C.C. No. 164 of 2019 the next date of hearing is on 27.08.2024 on which date, the I.O will be examined, hence, he opposed this petition and prayed for dismissal.

4. The learned counsel for the petitioner repudiated the same and submitted that the investigation officer in the both the cases are one and the



CrI.R.C.No.1372 of 2024

same deliberately they are not producing the witnesses and not completing the trial in C.C.No.164 of 2019. In the event of the accused in C.C.No.164 of 2019 get acquittal it would cause prejudice to him and the judgment in that case will have adverse impact, against the petitioner/ accused in C.C. No. 164 of 2019.

5. This contention cannot be brushed aside. Both the cases are not similar in nature. Hence, appointment of separate Assistant Public Prosecutor is not required. However, in order to safeguard the interest of the petitioner, trial in both the cases can be conducted by the Assistant Public Prosecutor attached to the Court. The petitioner can engage a counsel to Assist the prosecution, if so far not engaged, the judgement in both cases to be pronounced on the same day, by separate judgements.



Crl.R.C.No.1372 of 2024

WEB COPY

6. In view of the same, this Criminal Revision Case is disposed of.

Consequently, connected miscellaneous petition is closed.

21.08.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

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To

1. The Judicial Magistrate,
Thittagudi, Cuddalore District
2. Sub Inspector of Police,
Avinangudi Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.1372 of 2024

M.NIRMAL KUMAR, J.

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