



Crl.R.C.Nos.1584 and 1585 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.Nos.1584 and 1585 of 2023
and Crl.M.P.Nos.14607 and 14610 of 2023**

J.Mayavan

... Petitioner in both petitions

Vs.

1.The State Rep.by
The Inspector of Police,
Kattur Police Station,
Thiruvallur District.

2.G.Nagan

3.Kongan

... Respondents in both petitions

COMMON PRAYER : Criminal Revision Cases filed under Sections 397 r/w. 401 of the code of Criminal Procedure, 1973, to set aside the impugned orders dated 24.07.2023 made in unnumbered Crl.M.P.Filing SR.Nos.3012 and 3013/2013 in S.C.No.197 of 2015 on the file of the learned Principal District and Sessions Judge, Tiruvallur and set aside the same.



Crl.R.C.Nos.1584 and 1585 of 2023

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In both petitions

For Petitioner : No appearance

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

COMMON ORDER

The criminal revision cases have been filed to set aside the impugned orders dated 24.07.2023 made in unnumbered Crl.M.P.Filing SR.Nos.3012/2013 and 3013/2013 in S.C.No.197 of 2015 on the file of the learned Principal District and Sessions Judge, Tiruvallur.

2. The case of the petitioner is that the petitioner is the defacto complainant in S.C.No.197 of 2015 on the file of the learned Principal District and Sessions Judge, Tiruvallur. On 22.09.2013 at about 08.45 p.m., the petitioner and his brother were brutally attacked by the accused persons by using rubber belt, pine tree wood and cycle chain, in order to murder them and the accused persons snatched 5 sovereign gold chain and phone and attacked the car. However, the first respondent Police registered the case



Crl.R.C.Nos.1584 and 1585 of 2023

and filed charge sheet only under Sections 323, 324, 506(ii) IPC and Section 3 of TNPPDL Act by omitting 307 IPC. The Police threatened the petitioner and his son demanding bribe and the Police have miserably failed to constitute the offence under Sections 34 and 120(B) IPC for the criminal conspiracy and also created fake 161 Cr.P.C statements as if the accused persons have made statements that the defacto complainant himself got admitted in hospital for treatment. Therefore, the concerned Inspector and Sub-Inspector, who had conducted investigation, should be arrayed as accused Nos.3 and 4 in this case, instead of enlisting them as witnesses, for which, he has filed a petition in unnumbered Crl.M.P.Filing SR.No.3012/2013 in S.C.No.197 of 2015. Further, charge under Section 307 IPC has to be included as the injuries are serious in nature and hence, the charge must be altered under Section 307 IPC as contemplated under Section 216 Cr.P.C, instead of Section 324 IPC, for which, he has filed a petition in unnumbered Crl.M.P.Filing SR.No.3013/2013 in S.C.No.197 of 2015. Both the petitions were dismissed vide the impugned orders dated 24.07.2023. Challenging the same, the



CrI.R.C.Nos.1584 and 1585 of 2023

present petitions have been filed.

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3. Mr.Mohammed Nazrulla, the learned counsel reports no instructions from the petitioner.

4. From the materials available on record, it transpires that the petitioner and his brother were brutally attacked by the accused persons, for which, the petitioner made a complaint before the Police and it was registered in Crime No.95 of 2013 for the offences under Sections 323, 324 and 506(ii) IPC, and on completion of investigation, charge sheet was laid and it was taken on file in S.C.No.197 of 2015 by the learned Principal District and Sessions Judge, Tiruvallur, for the offences under Sections 323, 324 and 506(ii) IPC and Section 3 of TNPPDL Act. However, the grievances of the petitioner is that the Police Officials colluding with the accused persons have created fake statements under Section 161 Cr.P.C as if the petitioner/defacto complainant himself got admitted in the hospital for treatment and the offence under Section 307 IPC has not been included as



Crl.R.C.Nos.1584 and 1585 of 2023

the injuries are serious in nature, due to which, he has filed two petitions, wherein, one of the prayers is to array the Police, who had conducted investigation, as accused Nos. 3 and 4 instead of enlisting them as witnesses in S.C.No.197 of 2015 and another prayer is to alter the charge under Section 324 IPC to Section 307 IPC in S.C.No.197 of 2015 connected with Crime No.95/2013 on the file of the Inspector of Police, Kattur Police Station. The trial Court, considering the materials available on record, held that the trial has not yet been commenced in this case and as per Section 166(A) of Cr.P.C, if there is any defect on the investigation, the proceedings can be initiated against the Investigation Officer, however, there is no evidence available to add the aforementioned officials as accused and based on the documents available, the Court has framed charges under Sections 323, 324 and 506(ii) IPC and Section 3 of TNPPDL Act and there was no material available for altering the charge or adding the charge and thereby, the trial Court dismissed the petitions filed by the petitioner. This Court does not find any error in the findings arrived at by the trial Court in the impugned orders dated 24.07.2023 passed in unnumbered Crl.M.P.Filing



CrI.R.C.Nos.1584 and 1585 of 2023

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SR.Nos.3012 and 3013/2013 in S.C.No.197 of 2015, since there is no sufficient materials to add the Police Officials as accused and alter the charge under Section 324 IPC to Section 307 IPC.

5. Accordingly, the Criminal Revision Cases are dismissed.

Connected miscellaneous petitions are closed.

12.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1. The learned Principal District and Sessions Judge, Tiruvallur.

2. The Inspector of Police,
Kattur Police Station,
Thiruvallur District.

3. The Public Prosecutor,
Madras High Court.



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Crl.R.C.Nos.1584 and 1585 of 2023

M.DHANDAPANI, J.

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Crl.R.C.Nos.1584 and 1585 of 2023

12.07.2024