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Crl.O.P.(MD)No.2968 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.2968 of 2022
and
Crl.M.P.(MD).Nos.2224 and 2226 of 2022

Jeyakumar

... Petitioner/A2

Vs.

1.State Rep. by

The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District.
Crime No.887 of 2020

... 1st Respondent/Complainant

2.Sivakumar

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with C.C.No.94 of 2021 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same in respect of the petitioner's concerned.

For petitioner : Mr.S.Poornachandran

For R-1 : Mr.P.Kottaichamy
Government Advocate (Criminal Side)

For R-2 : No Appearance



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.94 of 2021 pending on the file of the learned Judicial Magistrate No.II, Virudhunagar, insofar as the petitioner is concerned.

2.The case of the prosecution is that while the second respondent/defacto complainant was consuming liquor, the petitioner abused the defacto complainant in filthy language and attacked him with stick, thereby, he sustained injury. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.887 of 2020 against the petitioner and the respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate No.II, Virudhunagar and the learned Judicial Magistrate has taken cognizance in C.C.No.94 of 2021 for the alleged offence punishable under Sections 294(b) and 323 of I.P.C.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted



against him and there is no specific allegation made against the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).***



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6.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.94 of 2021, pending on the file of the learned Judicial Magistrate No.II, Virudhunagar. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7.At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

20.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
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To

- 1.The Judicial Magistrate No.II,
Virudhunagar.
- 2.The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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