



CrI.O.P.(MD) No.3410 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.O.P (MD) No.3410 of 2023

and

CRL.M.P (MD) Nos.3096 and 3097 of 2023

Sundarapandi @ Singam

... Petitioner

Vs

**1. The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam, Madurai District.
Crime No. 458 of 2018.**

2. Thavarajan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the Final report in C.C.No. 769 of 2022 on the file of the Judicial Magistrate court, Thirumangalam and quash the same as arbitrary and illegal in respect of the petitioner is concerned.

For Petitioner : Mr.Paranjothi.R,

For R1 : Mrs.M.Aasha

Government Advocate (Crl.Side)

For R2 : Mr.D.Balamurugapandi



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ORDER

This criminal original petition is filed to call for the records pertaining to the final report in C.C.No.769 of 2022, on the file of the learned Judicial Magistrate, Thirumangalam.

2.The said case arises out of Crime No.458 of 2018, on the file of the respondent police station. On the complaint given by the neighbor of the petitioner that on the day of occurrence, when the defacto complainant had celebrated the marriage of her son, the neighbors, who had previous enmity with them, formed as an unlawful assembly and all the ten of them entered his house and hit the defacto complainant and his sons and family members with their hands, iron rod and wooden stick. As such, the above case was registered for the offence under Section 147, 148 294(B), 323, 324 and 506(2) and Section 4 of the TNPHW Act, 2002. It can be seen that thereafter the petitioner herein namely Sundarapandi @ Singam had filed a petition in Crl.O.P(MD)No.20378 of 2018 with a prayer not to harass him. When the case came up for hearing, it is represented on behalf of the



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prosecution that there was no case pending against him and there was no investigation pending against him. Recording that the said petition was closed.

3.The learned Counsel appearing on behalf of the petitioner would submit that in the teeth of the statement made by the prosecution in CrI.O.P(MD)No.20378 of 2018 that the petitioner's name is not specifically mentioned in the FIR and by relying upon the omnibus allegation that the other accused generally hit the defacto complainant and his family members with hands, wooden stick etc, the final report has been laid. When the petitioner and the private respondent are neighbors, FIR has been given in detail and when the petitioner's name is not specifically mentioned and even in the final report, the respondent could not investigate and find out any specific overt act against the petitioner, this Court shall interfere with and quash the same.

4.Per Contra, the learned Government Advocate (crl.side) would submit that in the FIR itself, the petitioner's name was mentioned. The petitioner seemed to be called as Singaraj in the village and therefore he was



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mentioned Singaraj in the FIR as accused No.9. Since the name was mentioned as Singaraj, in the earlier petition, which was filed by Sundarapandi, it was represented on behalf of the prosecution that Sundarapandi is not an accused in the case. However, subsequently during the investigation it was found out that the petitioner/Sundarapandi is being called as Singaraj and both name are of one and the same person and in this regard, a certificate was also obtained from the concerned village Administrative Officer and the same is filed along with the final report. Therefore, the case of the petitioner that his name is not mentioned in the FIR is incorrect. When the overt act is mentioned that the petitioner also attacked the defacto complainant along with his family members, this court cannot factually go into the issue and the quash the case.

5.The learned counsel appearing on behalf of the defacto complainant taking this Court to the statement given under Section 161 Cr.P.C and also the FIR would point out that there are allegations against the petitioner also.

6.I have considered the rival submissions made on either side and perused the material records of the case.



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7.As rightly contended by the learned Government Advocate(Crl.Side), it can be seen that the petitioner has an alias name Sundarapandi @ Singam @ Singaraj. In any event, whether it is the same person or it is a different person, cannot be gone into in the quash petition. Similarly, with reference to the overt act, it cannot be said that there is no material at all as against the petitioner. It is for the petitioner to cross examine the witnesses during the trial and establishes that he did not commit any offence.

8.Since the arguments advanced by the learned Counsel for the petitioner are factual in nature, the same cannot be entertained for the purpose of quashing the final report and leaving it open for the petitioner to raise all the issues during the trial, this criminal original petition is disposed of.

9.It is seen that the case is of the year 2022 and there are only 9 witnesses. Therefore, the trial court is requested to expedite the trial and the presence of the petitioner before the trial Court is dispensed with. The



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petitioner can be represented by a counsel on special vakalat for all the hearings, except the hearings which are insisted by the trial Court for examination.

10. Consequently, the connected miscellaneous petitions are closed.

06.09.2024

NCC : Yes/No
Internet: Yes/No
Index: Yes/No
LR

To

1. The Judicial Magistrate,
Thirumangalam.

2. The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam, Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

LR

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