



Crl.O.P.(MD)No.3527 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.3527 of 2022

and

Crl.M.P.(MD)Nos.2599 & 2600 of 2022

Divya

... Petitioner

Vs.

1.The Inspector of Police,
Seithunganallur Police Station,
Thoothukudi District.
(Crime No.29 of 2020)

2.Gokila

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records on the impugned C.C.No.81 of 2020 on the file of the Judicial Magistrate Court, Srivaikundam and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.C.Geetha

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)



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For R2

: Mr.Mohanasundaram,
for Mr.S.Mandhiralingeswaran

ORDER

This Criminal Original Petition has been filed to quash the impugned charge sheet in C.C.No.81 of 2020 on the file of the Judicial Magistrate Court, Srivaikundam.

2.The case of the prosecution is that there was previous enmity between the petitioner and the second respondent, due to which, the petitioner abused the second respondent and her son in filthy language and also threatened them with dire consequences. Based on the complaint given by the second respondent, the first respondent registered a case and upon completion of investigation, he filed charge sheet, which was taken on file in C.C.No.81 of 2020 by the Judicial Magistrate Court, Srivaikundam. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner would submit that in fact, the second respondent and her son only assaulted the



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petitioner herein and hence, the petitioner preferred a complaint as against them. In order to escape from the said case, the present false complaint has been preferred by the second respondent. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. He would further submit that already a counter case also pending as against the second respondent in STC.No.1015 of 2021 before the very same Court below and hence, as per Clause 566(ii) of the Police Standing Order, the present charge sheet cannot be quashed and both the cases have to be tried together. Hence, he would pray to dismiss the present petition.

5.Heard the learned counsel on either side and perused the materials available in the record.



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6.On perusal of records reveals that there was some dispute between the parties, due to which, a case and counter case are pending before the same Court below in C.C.No.81 of 2020 and STC.No.1015 of 2021 respectively. As rightly pointed out by the learned Government Advocate(Crl.side) for the first respondent, as per Clause 566(ii) of the Police Standing Orders, charge sheets in cases and counter cases arising out of the same transaction the investigating officer should enquire into both of them and adopt one or the other of the two courses i.e., to charge the case where the accused were the aggressors or to refer both the cases if he should find them untrue. He should place before the court a definite case which he asks it to accept. The investigating officer in such case should not accept into one complaint and examine only witnesses who support it and gave no explanation at all for the injuries caused to the other side. It is his duty to exhibit the counter-complaint in the Court, and also to prove medical certificates of persons wounded on the opposite side. The truth in these cases is invariably not in strict conformity with either complaint and it is quite necessary that all the facts are placed before the Court to enable it to arrive at the truth and a just decision.



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7. In view of the above, there is no question of quash the impugned charge sheet and the petitioner has to face the trial. At this juncture, the learned counsel for the petitioner submitted that this Court may consider dispensing 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 her 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 her appearance on those days.

8. In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

01.02.2024

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

- 1.The Judicial Magistrate Court,
Srivaikundam.
- 2.The Inspector of Police,
Seithunganallur Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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