



Crl.O.P.(MD)No.10396 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **01.03.2024**

CORAM:

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

Crl.O.P.(MD) No.10396 of 2022 and
Crl.M.P.(MD).Nos.6498 and 6499 of 2022

Sumesh

... Petitioner/Accused

Vs.

1.The State of Tamil Nadu
Rep. by its Inspector of Police,
Tiruvattar Police Station,
Kanyakumari District
Crime No.141/2019

2.Shajin

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the criminal case in STC No.937 of 2019 pending on the file of the Judicial Magistrate No.II,Padmanabhapuram and quash the same.

For petitioner : Mr.V.Sukumar

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

No appearance for R2



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ORDER

This petition has been filed seeking to quash the case in STC No. 937 of 2019 pending on the file of the Judicial Magistrate No.II,Padmanabhapuram.

2. The case of the prosecution is that it is a case and counter and due to previous enmity, the cases have been registered against both sides. The complaint given by the petitioner against the 2nd respondent herein has been registered and on completion of investigation, charge sheet has been filed and trial is in progress. However, the complaint given by the 2nd respondent against the petitioner was registered in Crime No. 141/2019 and on completion of investigation, chargesheet was filed in STC No.937/2019 before the trial court under Sections 294(b), 323 and 341 IPC, for quashing which, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is no way connected with the offence as alleged by the prosecution. The learned counsel would submit that the petitioner only sustained injuries in the alleged incident and on the complaint given by the petitioner, a case has been registered and the same is ripe for trial,



while so, in order to wreck vengeance, the petitioner was implicated in the alleged offence and hence, prays for allowing the petition.

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

5. This Court gave its anxious considerations to the rival submissions and perused the materials available on record.

6. When there are case and counter, necessarily, the respondent police have to follow the provisions under Order 566 of the Police Standing Orders. In the present case, as per the said order only, the case was registered and chargesheet has been filed. Since wound certificate is available, the necessary ingredients are satisfied and hence, the points raised here cannot be canvassed before this court and it has to be canvassed before the trial Court. 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 him 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 had to the decision of the Hon'ble Apex Court in State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).

6. For the reasons aforesaid, this Court finds no ground or scope to quash STC No.937 of 2019 pending on the file of the Judicial Magistrate No.II,Padmanabhapuram. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

7. The learned counsel appearing 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 petitioners, 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.



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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.

01.03.2024

Index : Yes/No

Internet : Yes/No

RR

To

1.The Judicial Magistrate No.II,Padmanabhapuram

2.The Inspector of Police,
Tiruvattar Police Station,
Kanyakumari District

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



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M.DHANDAPANI. J.

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