



Crl.O.P.(MD) No.12645 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.12645 of 2021

and

Crl.M.P.(MD) No.6448 of 2021

A.Prakash

...Petitioner

Vs.

1. State represented through
the Inspector of Police,
Nathampatti Police Station,
Virudhunagar.
(In Crime No.67 of 2021)

2. Saraswathi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the First Information Report in Crime No.67 of 2021 on the file of the Nathampatti Police Station, Virudhunagar District and the quash the same.

For Petitioner : M/S.K.Sivabalan
for S.Prabha

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : Mr.R.Karunanidhi



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Crl.O.P.(MD) No.12645 of 2021

ORDER

This Criminal Original Petition is filed by the petitioner challenging the F.I.R. in Crime No.67 of 2021 on the file of Nathampatti Police Station, Virudhunagar District.

2. The case of the prosecution is that on 22.07.2021 when the second respondent/defacto complainant had requested the present petitioner's father to repay a sum of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand only) lent to him, the petitioner and his other family members attacked the second respondent/defacto complainant with a wooden log, as a result of which the second respondent/defacto complainant sustained injuries all over her body. It is also alleged by the second respondent/defacto complainant that the father of the petitioner had snatched five sovereigns of gold Thaali chain and a cell phone from her. Based on the complaint lodged by the second respondent/defacto complainant, the Inspector of Police, Nathampatti Police Station registered F.I.R in Crime No.67 of 2021 on 26.07.2021 against the petitioner as well as his other family members for the offences punishable under Sections 447, 294(b), 323, 379, 341, 506(ii) I.P.C and Section 4 of



Crl.O.P.(MD) No.12645 of 2021

Tamil Nadu Women Harassment Act.

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3. The learned Counsel appearing for the petitioner would contend that on the date of occurrence i.e., 22.07.2021 the petitioner, an Army Officer was working in Coimbatore region and he was not at all present in the place of occurrence. He would also contend that the F.I.R was registered belatedly on 26.07.2021 for the offences that allegedly took place on 22.07.2021. According to him, the petitioner had not committed any offence and that he had put in 17 years of unblemished service as an Army Officer.

4. Per contra, R.M.Anbunithi, learned Additional Public Prosecutor would contend that the Inspector of Police, Nathampatti Police Station is investigating the case and that since the present petitioner did not appear before him, he is unable to file a final report. According to him, there are no valid grounds to quash the F.I.R.

5. The main contention of the petitioner is that on the alleged date of occurrence i.e., 22.07.2021, he was not present in the place of occurrence and that he was working in Coimbatore region. It is seen from



Crl.O.P.(MD) No.12645 of 2021

the records that two persons were injured in the present case and the medical Officer had also issued wound certificates stating that the injuries sustained by them are grievous in nature.

6. It is settled law that mere delay in lodging a complaint with the police cannot be a ground for quashing the F.I.R. It is also seen that the petitioner's father had lodged a complaint stating that the second respondent/defacto complainant assaulted him when he was ploughing his land. He in fact had lodged a complaint before the Watrap Police Station and the same was registered as F.I.R in Crime No.53 of 2021. Thus, it is seen that there is previous enmity between the petitioner and the second respondent/defacto complainant. However, since it is contented that the petitioner and his family members attacked the second respondent/defacto complainant with a wooden log, as a result of which she sustained grievous injuries there is no good ground to quash the F.I.R. Moreover, under Section 103 of the Indian Evidence Act, if the accused wishes the Court to believe in the fact that he was elsewhere from the crime scene the burden entirely lies upon him to prove the same with no reasonable doubt.

7. Accordingly, this Criminal Original Petition stands dismissed.



Crl.O.P.(MD) No.12645 of 2021

Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
jbr

30.01.2024

To

1. State represented through
the Inspector of Police,
Nathampatti Police Station,
Virudhunagar.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.12645 of 2021

R.HEMALATHA, J.

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Crl.O.P.(MD) No.12645 of 2021

30.01.2024