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Crl.O.P.(MD)No.16350 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.16350 of 2022

and

Crl.M.P.(MD).Nos.10870 & 10871 of 2022

1.Vimaladevi

2.Kathiresan

... Petitioners

Vs.

1.The Inspector of Police,
Thirunagar Police Station,
Madurai District.
(Crime No.166 of 2019)

2.Kalaiselvi

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in C.C.No. 519 of 2021 pending before the learned Judicial Magistrate No.6, Madurai and quash the same as illegal.

For petitioners

: Ms.Surekha
for Mr.R.Venkatesan

For R-1

: Mr.P.Kottaichamy,
Government Advocate
(Criminal Side)



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For R-2

: Mr.K.Sankar

ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.519 of 2021 pending before the learned Judicial Magistrate No.6, Madurai, against the petitioners herein.

2. The case of the prosecution is that on 29.04.2019, one Asaithambi and his wife Shanthi / Accused Nos.1 and 2 had wrongfully restrained the husband of the second respondent and thereafter, their sons, viz., Rahul and Yokesh / Accused Nos.3 and 4 had attacked her husband with deadly weapons and thereafter, the above said Shanthi had stolen 10 sovereigns of gold chain from the husband of the second respondent. Hence, the second respondent lodged a complaint before the first respondent Police and the respondent Police registered a case in Crime No.166 of 2019 and conducted investigation and on completion of investigation, they filed a charge sheet before the learned Judicial Magistrate No.6, Madurai and the same was taken on file in C.C.No.519 of 2021 for the offence punishable under Sections 342, 324, 506(ii), 379(NP) and 109 IPC. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioners would submit that the first petitioner is the sister-in-law of the second respondent and the second petitioner is the husband of the first petitioner. He would further submit that Accused No.1, viz., Asaithambi, the first petitioner herein and the husband of the second respondent are brothers and sisters. He would further submit that already there was a property dispute between them, due to which, on a particular day, the husband of the second respondent went to the house of the first accused for sharing their properties. At that time, Accused Nos.1 and 2 caught hold the husband of the second respondent and Accused Nos.3 and 4, who are the sons of Accused No.1 and 2 brutally attacked the husband of the second respondent by using aruval. Thereby, the husband of the second respondent sustained grievous injuries and he admitted in the Rajaji Hospital. Thereafter, the second respondent went to the Hospital and she made a complaint before the first respondent Police. He would further submit that even on bare perusal of FIR as well as the charge sheet, it is seen that the petitioners are not available at the scene of occurrence. The only allegation against the petitioners is that the petitioners herein instigated Accused Nos.1 and 2 to attack the husband of the second respondent. He would further submit that as per the version of the second respondent, Accused Nos.1 and 2 contacted the petitioners over



phone and the petitioners herein instigated the other accused persons to attack the victim. He would further submit that there is no material to show the call details between the petitioners and Accused Nos.1 and 2. He would further submit that without any materials, implicating the petitioners herein as an accused is not sustainable one and hence, he prays for allowing this petition.

4. The learned counsel appearing for the second respondent would submit that the first petitioner is the sister-in-law of the second respondent. He would further submit that Accused No.1 and the husband of the second respondent have filed a suit in O.S.No.343 of 2020 before the Sub Court, Thirumangalam. He would further submit that at the instigation of the petitioners only, Accused Nos.1 to 4 had brutally attacked the husband of the second respondent. Hence, he prays for dismissal of the petition.

5. The learned Government Advocate (Criminal Side) appearing for the State has adopted the arguments of the learned counsel appearing for the second respondent.



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6. In the present case, there is absolutely no material or averment to show that the petitioners had instigated the other accused persons or engaged in a conspiracy to commit the alleged offence or intentionally aided the other accused to commit the offence. It is also seen in the FIR as well as the charge sheet that the petitioners were not present at the scene of occurrence.

7. In view of the above discussion, this Court is inclined to quash the proceedings in C.C.No.519 of 2021 pending before the learned Judicial Magistrate No.6, Madurai against the petitioners herein.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.519 of 2021 pending before the learned Judicial Magistrate No.6, Madurai stands quashed against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

27.03.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes / No

TSG

To

1.The Judicial Magistrate,

Additional Mahila Court, Madurai.



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- 2.The Inspector of Police,
South Gate Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

TSG

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