



Crl.O.P.(MD)No.15308 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.09.2024

Pronounced on : 13.11.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15308 of 2024

and

Crl.M.P.(MD)Nos.9593 and 9595 of 2024

1.Karthick

2.Murugaprabhu @ Prabhu

... Petitioners

Vs.

1.The State rep. by
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
(Crime No.143 of 2023)

2.Vasanthakumar

... Respondents

Prayer : This Criminal Original Petition filed under Section 528 B.N.S.S., to call for the entire records pertaining to the proceedings in C.C.No.127 of 2023 pending on the file of the learned Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District and quash the same as far as the petitioners are concerned.



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For Petitioners : Mr.D.Rajaboopathy
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to call for the records pertaining to the case in C.C.No.127 of 2023 on the file of the Judicial Magistrate No.I, Sivakasi and quash the same.

2. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.143 of 2023 on the file of Sivakasi Town Police Station against the petitioners for the alleged offences under Sections 294(b), 323 and 506(2) IPC. After completing the investigation, charge sheet came to be filed and the case was taken on file in C.C.No.127 of 2023 and is pending on the file of the Court of the Judicial Magistrate No.I, Sivakasi.

3. The case of the prosecution is that the second respondent/defacto complainant was in love with one Elakkiya, who is the daughter of the



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first petitioner/first accused's maternal aunt and got married, that the first petitioner used to abuse the second respondent for marrying his maternal aunt's daughter, that on 14.04.2023 at about 18.10 hours, when the second respondent was working in the club, the first petitioner came in a drunken condition, abused the second respondent in filthy language and throw glass bottle and tumbler towards him and caused criminal intimidation, and that subsequently at about 19.00 hours, when the second respondent was at Sivakasi bus stand along with his brother and other relatives, the first petitioner along with the second petitioner/second accused came to that place in a drunken condition, abused them in filthy language and attempted to stab the second respondent with a bottle and also assaulted the other witnesses and caused criminal intimidation.

4. The learned counsel appearing for the petitioners would submit that the petitioners as well as the second respondent and their family members had quarreled with each other due to previous enmity, in which, both the parties assaulted and threatened with dire consequences, that though the incident was allegedly occurred at 18.10 hours on 14.04.2023, FIR came to be registered at 10.00 hours on 20.04.2023, that there is



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absolutely no explanation for the inordinate delay in lodging the FIR, that the victims had only sustained simple injuries and moreover, there is no specific overt act alleged against the petitioners, that on the basis of the complaint given by the first petitioner, FIR came to be registered against the second respondent and others in Crime No.136 of 2023, that the police has not followed the Police Standing Order 566A while conducting the investigation in case and case in counter and that therefore, the petitioners were constrained to file the present quash petition.

5. It is not in dispute that on the basis of the complaint given by the first petitioner, FIR came to be registered in Crime No.136 of 2023 for the alleged offences under Sections 147, 294(b) and 323 IPC and after completing the investigation, charge sheet came to be filed and the case was taken on file in S.T.C.No.415 of 2023 on the file of the Judicial Magistrate Court No.I, Sivakasi.

6. As already pointed out, on the basis of the complaint given by the second respondent, FIR came to be registered in Crime No.143 of 2023 for



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the alleged offences under Sections 294(b), 323 and 506(2) IPC and charge sheet was taken on file for the very same offences.

7. The learned Government Advocate (Criminal Side) appearing for the first respondent would fairly concede that the case in Crime No.143 of 2023 and the case in Crime No.136 of 2023 are case and case in counter.

8. It is pertinent to note that the accused 2 and 3 in S.T.C.No.415 of 2023 (Crime No.136 of 2023) have filed a quash petition before this Court in Crl.O.P.(MD)No.22433 of 2023 and a learned Judge of this Court vide order dated 22.12.2023 allowed the petition and thereby quashed the charge sheet in S.T.C.No.415 of 2023 on the file of the Judicial Magistrate No.I, Sivakasi.

9. As rightly contended by the learned counsel appearing for the petitioners, the learned Judge in the quash order dated 22.12.2023 has mainly assigned a reason that the investigating officer has not followed the procedures enunciated in PSO588-A and that they have failed to find out the aggressors but filed the charge sheet in both the matters.



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10. Recently, Hon'ble Full Bench of this Court in ***T.Balaji and another Vs. The State rep. by the Inspector of Police, New Washermenpet Police Station, Chennai and another*** made in ***Crl.O.P.Nos.4587 of 2023 batch cases dated 08.08.2024*** have specifically held that the police are required to mandatorily follow the procedure prescribed in PSO 588A while investigating a case and case in counter ie., rival versions of the same incident and that the police will take note of and scrupulously follow the guidelines set out in paragraph 58-A. In the case on hand, as already pointed out, the investigating officer has not found who is the aggressor but on the other hand, filed the charge sheet in both the cases and as such, the way in which the charge sheets came to be filed in both the cases cannot be sustained.

11. As already pointed out, this Court has already quashed the case in S.T.C.No.415 of 2023 on the ground that the investigating officer has not followed the mandatory requirements contemplated in PSO 588A. In the present case also, there are no materials to show that the petitioners are the aggressors.



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12. Considering the above, this Court is of the view that the benefit extended to the accused in counter case can be extended to the accused in the present case also. Hence, this Court concludes that the charge sheet in C.C.No.127 of 2023 is liable to be quashed.

13. In the result, this Criminal Original Petition stands allowed and the proceedings in C.C.o.127 of 2023 pending on the file of the Judicial Magistrate No.I, Sivakasi is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

13.11.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The Judicial Magistrate No.I,
Sivakasi.
- 2.The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.O.P.(MD)No.15308 of 2024
and
Crl.M.P.(MD)Nos.9593 and 9595 of 2024

Dated : 13.11.2024