

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.25882 of 2011

M.Thirunavukkarasu

..Petitioner

Vs

1. The State rep.by
The Inspector of Police
Namakkal Police Station,
Namakkal.

2. Kulandaivel Pillai ..Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records on the file of the respondent in connection with FIR No.481/2008 and quash the same against the petitioner.

For Petitioner : Mr.S.Ambigapathi

For R1 : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This criminal original petition has been filed to call for the records on the file of the respondent in connection with FIR No.481/2008 and quash the same against the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent.

3. Today, Mr.a.Sivaraman, Inspector of Police, Namakkal Police Station, Namakkal is present.

4. Kulandaivel Pillai, the de-facto complainant, was admitted with injuries in the General Hospital, Namakkal and on intimation, the respondent police went to the hospital and recorded the statement of Kulandaivel Pillai, based on which, a case in Crime No.481 of 2008 was registered on 06.04.2008 under Sections 147, 323, 447 and 374 IPC against Thirunavukkarasu and forty others.

5. It is the case of the de-facto complainant, that his son-in-law Murugesan was running a waste paper and old junk items shop in the premises of R.P.Colony, Namakkal and that his son-in-law was having some dispute with Thirunavukkarasu, the petitioner herein. On 05.04.2008, when the de-facto complainant was sleeping in the shop, around 12.30 p.m. Thirunavukkarasu and others entered the shop and assaulted the de-facto complainant. The de-facto complainant was admitted in the General Hospital, Namakkal and as stated above, FIR was registered in this case.

6. Learned counsel appearing for the petitioner / accused submitted that the de-facto complainant was not running any shop in the premises and that earlier, Murugesan and his wife Krishnaveni have given false complaints against the petitioner / accused and therefore, the present complaint is also a false complaint. He also contended that Murugesan and his wife Krishnaveni had borrowed Rs.10 lakhs from the petitioner / accused and had returned only Rs.5 lakhs and in order to avoid repayment of the balance Rs.5 lakhs, they have given false complaint against the petitioner / accused.

7. In the considered opinion of this Court, this extraneous factors cannot be considered while dealing with the petition under Section 482 Cr.P.C. to quash the FIR. In this case, the de-facto complainant was admitted to the hospital and on information, the police recorded the statements in the hospital based on which the FIR was registered. The wound certificate shows that the de-facto complainant was injured. Under such circumstances, it cannot be stated that there are no prima facie materials in the FIR for quashing the prosecution.

8. Learned Additional Public Prosecutor submitted that the investigation has been completed and the charge sheet is ready. In the charge sheet, only Thirunavukkarasu, the petitioner herein has been made an accused under Sections 447 and 323 IPC. In the result, since there are no prima facie materials in the FIR, the same cannot be quashed in the light of the law laid down by the Supreme Court in State of Haryana Vs Bhajan Lal [(1992) Supp [1] SCC 335].

With the above observation, this petition is dismissed with a direction to the respondent police to file the final report within four weeks from the date of receipt of a copy of this order.

mk

Sd/-
Assistant Registrar (J)
/TRUE COPY/

Sub-Assistant Registrar

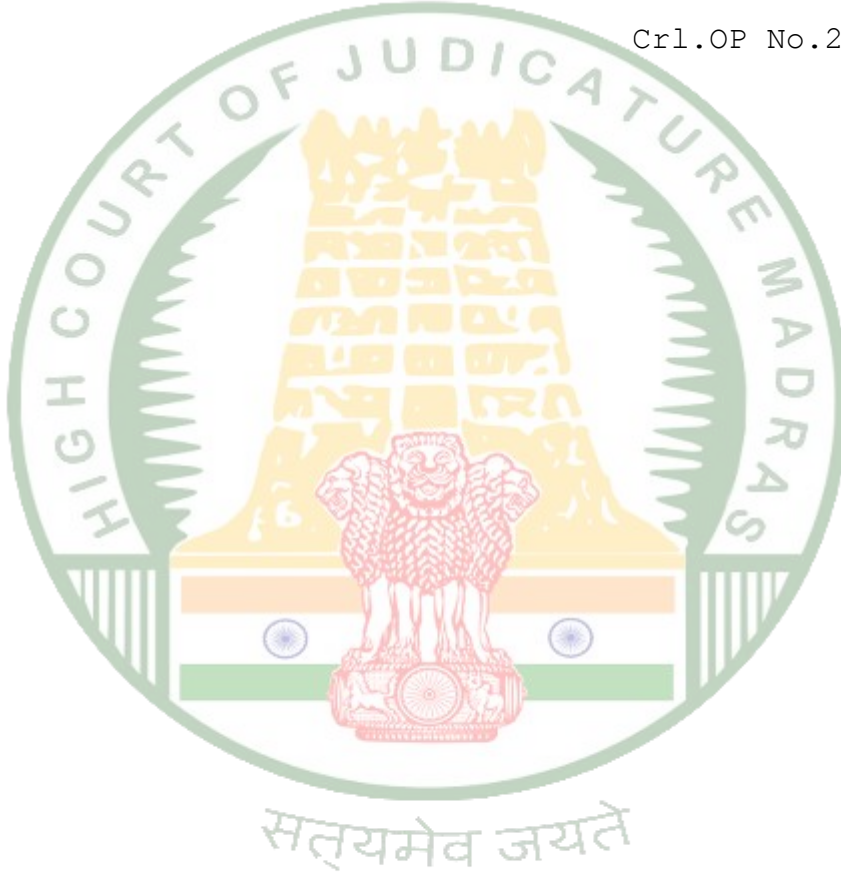
To

1. The Inspector of Police
Namakkal Police Station,
Namakkal.
2. The Public Prosecutor
High Court, Madras.

+1CC to MR.S.AMBIGAPATHI Advocate SR.NO.70913

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LRS[CO]
MK:02/01/2017



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