

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.06.2015

DELIVERED ON : 10.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.13056 of 2015 and M.P.No.1 of 2015

1.Ahamed Shajahan

2.Sheik Mydeen

3.Usman Sherief

..Petitioners/Accused

Vs

The State of Tamil nadu

Rep by Inspector of Police

Marandahalli Police Station

Dharmapuri District.

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to S.C.No.113/2014 on the file of the learned Additional Assistant Sessions Judge, Dharmapuri pending trial and quash the charge sheet.

For Petitioners : Mr.N.Surya Senthil

For Respondent : Mr.C.Emalias

Additional Public Prosecutor

ORDER

The petitioners seek to quash the proceedings in S.C.No.113 of 2014 pending on the file of the learned Additional Assistant Sessions Judge, Dharmapuri.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. On a complaint lodged by one Saravanan, the respondent police registered a case in Cr.No.168 of 2013 on 24.08.2013 for offences under Sections 294(b), 341, 323, 324 and 307 IPC against the petitioners herein and after completing the investigation, Final Report was filed and the case was committed to the Court of Sessions and taken on file as S.C.No.113 of 2014 by the Additional Assistant Sessions Judge, Dharmapuri.

4. It is the case of the prosecution that the de facto complainant had purchased the property in D.No.12, Balasubramaniam second Street from one Jayasree and was in enjoyment of it. While so, the property was claimed by the accused, Saleem herein and they were creating problems. It is alleged that on 23.08.2013 around 8.30 p.m. when the complainant went to the said house, the accused came in a vehicle and attacked the de facto complainant with

weapons, resulting in serious injuries. On a complaint lodged by the de facto complainant, the case was registered and Final Report was filed as aforesaid.

5. The learned counsel for the petitioners submitted that the Accident Register in this case shows only simple injury and therefore, the prosecution under Section 307 IPC is not maintainable. I am unable to agree with this submission, because it is not the nature of the injury that will determine the offence, but the intention of the offender. Here there are sufficient materials to show that the accused attempted to commit the murder of the victim, but he escaped by whisker.

6. Learned counsel further submitted that the incident had taken place on 23.08.2013 at 8.30 p.m., but the FIR was registered only at 00.30 hrs on 24.08.2013. It is seen that after the incident the victim was rushed to the hospital for treatment and only thereafter, the FIR was registered and this Court does not find any serious infirmity in that. The learned counsel further submitted that the place of incident is in doubt, inasmuch as there is a controversy whether the incident took place in Balasubramaniam Street or Venku Gounder Street. This is a question of fact which cannot be determined in a proceedings under Section 482 Cr.P.C.

7. Initially the learned counsel submitted that the accused are the owners of the property and not the defacto complainant. Here the dispute is not with regard to the ownership of the property, but with regard to the alleged offence that had taken place on the said date and time and neither the Sessions Court nor this Court can give any finding about the ownership of the property.

8. Lastly the learned counsel contended that, most of the witnesses are from Venku Gounder Street and not from the locality. Even according to the petitioners, Venku Gounder Street and Balasubramaniam Street are near each other and just because the premises of the witnesses is in Venku Gounder Street, it cannot be stated that they are false witnesses.

In the result, there are no merits in this petition and the same is dismissed. Whatever is stated above is only for the limited purpose of deciding the quashing petition and it is always open to the petitioner to raise these issues before the trial Court. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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To

1.The Inspector of Police
Marandahalli Police Station
Dharmapuri District.

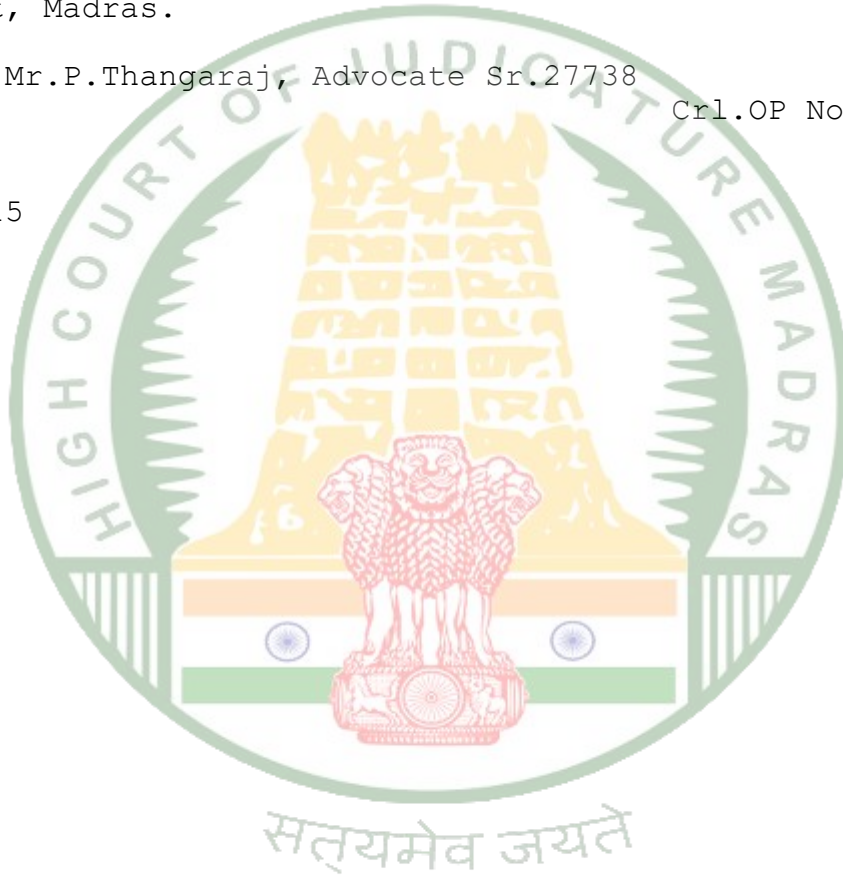
2. The Additional Assistant Sessions Judge,
Dharmapuri.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.P.Thangaraj, Advocate Sr.27738

Crl.OP No.13056 of 2015

SR(CO)
Eu 26.06.15



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