

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.107 of 2010
and
M.P.Nos.1 and 2 of 2010

1.Sadhu C.Dasiah
S/o.Chelliah

2.Bro.T.Merlin Jose
S/o.Dhanapal

3.Bro.R.Eliya
S/o.Rajan

... Petitioners/Accused

vs

1.Pastor Justin Christopper
S/o.Ponmani

2.State of Tamil Nadu
represented by
Sub-Inspector of Police,
R-3 Ashok Nagar,
Chennai - 85.

... Respondents

Criminal Revision filed under section 397 r/w 401 of the Code of Criminal Procedure, against the order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in M.P.No.4664 of 2009 on 31.12.2009.

For Petitioners: Mr.D.Stephen, senior counsel
for M/s.Shalom Associates

For Respondents: Mr.Srinivas [R1]
Mr.C.Iyyapparaj,
Government Advocate (Crl.side) (R2)

O R D E R

Petitioners challenge the order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in Crl.M.P.No.4664 of 2009 on 31.12.2009.

2. As against the closure of case registered in Crime No.751 of 2008 for offences u/s.341, 323, 506(ii) IPC r/w 120 IPC on the file of second respondent as 'mistake of fact', the first respondent/de facto complainant has moved a protest petition by way of M.P.No.4664 of 2009 before learned XVII Metropolitan Magistrate, Saidapet, Chennai. Under orders dated 31.12.2009, the protest petition stands allowed and learned Magistrate took cognizance for offences under Sections 341, 325 and 506(ii) I.P.C. r/w 34 I.P.C. Against such order, the accused persons are before this Court by way of this revision.

3. Heard learned counsel for petitioners, learned counsel for first respondent and learned Government Advocate (Crl.side) for second respondent.

4. In refusing to accept the final report which informed the case to be one of mistake of fact, learned Magistrate informed that the allegations in the complaint found support in 161(3) Cr.P.C. statement of the complainant and some of the eye-witnesses. Though some of the witnesses had informed the occurrence, wherein the complainant suffered injury to have taken place in a manner other than that stated by the complaint, the Magistrate saw therein proof of the occurrence and further found support for his decision from the accident register and the wound certificate of the complainant. Order under challenge is a well reasoned one.

5.This Court makes it clear that the observation herein above are only for the disposal of this petition. This order shall have no bearing on the merits of the case before the trial Court.

6.Considering the age of the first petitioner, this Court directs the Court below to dispense with his personal appearance before it, upon his swearing to an affidavit informing his address for service, that he duly would be represented by his counsel on all hearing dates, that he would, at no instance, dispute his identity and that, he would appear before the trial Court as and when required. Upon the first petitioner doing so, the Court below may seek his presence before it, solely on the important hearing dates.

7.This Criminal Revision stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The XVII Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Sub-Inspector of Police,
R-3 Ashok Nagar,
Chennai - 85.
- 3.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.107 of 2010

bvr (CO)
srg (05/04/2016)

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