

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.18211 of 2015
and M.P.Nos.1 and 2 of 2015

1.Mayakrishnan
2.Sathish @ Udaya Kumar
3.Gunaseelan
4.Vasantha
...Petitioners

Vs

The State rep.by
The Sub Inspector of Police,
F3, Vanur Police Station,
Villupuram District.
...Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in CC No.52 of 2015 pending on the file of the learned Judicial Magistrate, Vanur in Crime No.11 of 2015 on the file of the respondent police and to quash the same.

For Petitioners :Mr.J.S.Arunkumar

For Respondent :Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in CC No.52 of 2015 on the file of the learned Judicial Magistrate, Vanur, in Crime No.11 of 2015 on the file of the respondent police.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the materials placed on record.

3.On a complaint lodged by the defacto complainant, the respondent police registered a case in Crime No.11 of 2015 and after completing the investigation, filed a final report for offences under Section 294B, 448, 352 and 506(i) IPC before the learned Judicial Magistrate, Vanur, Villupuram District, challenging which, this quash petition has been filed before this Court.

4.The learned counsel for the petitioners submitted that in the FIR, the defacto complainant has stated that he was attacked by the accused with knife, but whereas in the final report, it is stated that the accused has attacked the defacto complainant by hand and therefore, there are discrepancies between the FIR and the final report.

5.The learned counsel for the petitioners further submitted that there is no independent witness in this case and only interested witnesses only have been examined. Just because in the FIR, the defacto complainant had given an exaggerated version, it cannot be a reason to quash the final report, where the police after thorough investigation have stated that the quarrel started in the road and the accused chased him into the house of the defacto complainant, where the defacto complainant and his wife were assaulted. The discrepancy in the FIR is a good ground for impeaching the credibility of the evidence of the witnesses. Similarly, the fact that only the relatives have been examined as witnesses, cannot be a reason for this Court to conclude that they are interested witnesses. Their evidence has to be tested only during the trial. Hence, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the points before the trial Court.

6.At this juncture, the learned counsel appearing for the petitioners submitted that the presence of the 4th petitioner may be dispensed, as the petitioner is a lady.

7.Accepting the submission of the learned counsel for the petitioners, this Court directs the 4th petitioner to appear before the trial Court for collecting the papers under Section 207 CrPC for answering the charge and also for answering the question under Section 313 CrPC and on the day of Judgment. For the other hearings, the 4th petitioner shall file a petition before the trial Court that her counsel will cross examine the witnesses without insisting for her presence and that she will not dispute their identity. On such petition being filed, the trial Court is directed to liberally consider the same. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Vanur.

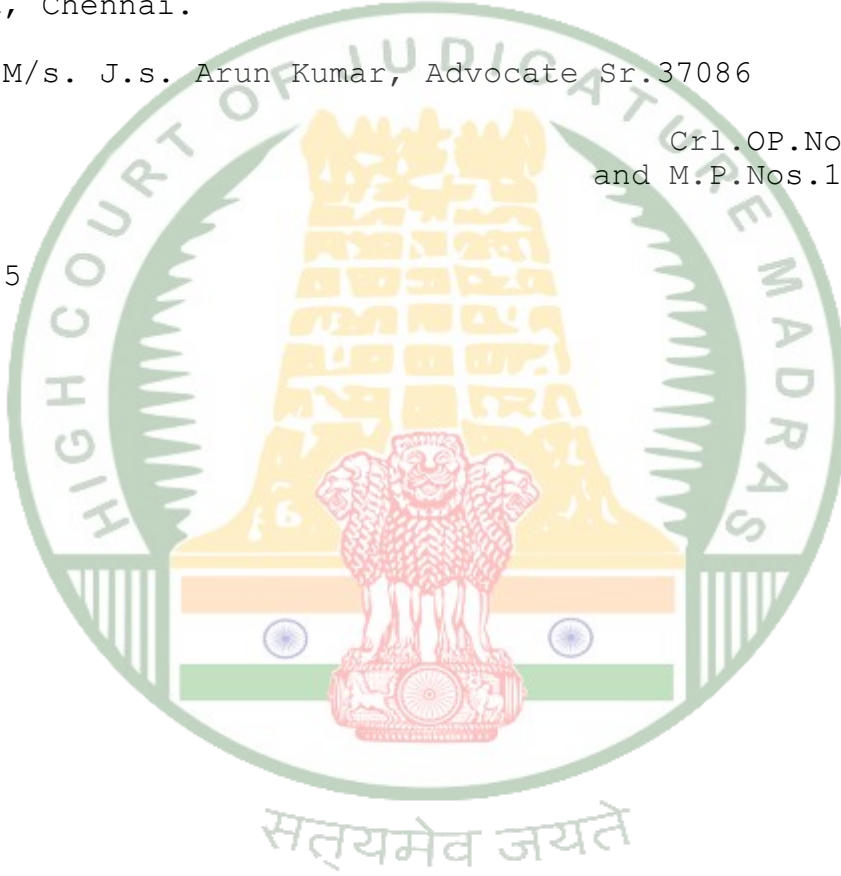
2.The Sub Inspector of Police,
F3, Vanur Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Chennai.

+ 1 cc to M/s. J.s. Arun Kumar, Advocate Sr.37086

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PPA(CO)
EU 17.08.15



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