

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.499 of 2010

&

M.P.No.1 of 2010

1.Ravi
S/o.Vijayan
2.Iyappan
S/o.Moorthy
3.Ramu
S/o.Settu .. Petitioners

vs.

1.The State Rep. By
Inspector of Police
Arakonam Town Police Station
(Cr.No.533 of 2004)
2.Moorthy
3.Malarmathy .. Respondents

Criminal Revision filed under section 397 and 401 Cr.P.C. against the order in C.M.P.No.329 of 2010 in C.C.No.182 of 2009 on the file of the Judicial Magistrate, Arakkonam dated 27.03.2010.

For Petitioners: Mr.D.J.Venkatesan

For Respondents: Mr.C.Iyyapparaj
Govt. Advocate (Cr1.side) for R1
No appearance for R2 and R3

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O R D E R

This revision arises against the order of learned Judicial Magistrate, Arakonam passed in C.M.P.No.329 of 2010 in C.C.No.182 of 2009 on 27.03.2010.

2. The case in C.C.No.182 of 2009 is pending trial for offences under Sections 294(b), 323 and 324 IPC. The defacto complainant was examined as PW1. He informed the involvement also of these petitioners. Thereupon the respondent filed a

petition under Section 319 Cr.P.C in C.M.P.No.329 of 2010. The same was allowed by the Court below under Orders dated 27.03.2010 giving rise to this revision.

3. Learned counsel for petitioners submitted that petitioners and PW1 are co-villagers. PW1 has not informed these petitioners to be assailants either in his original complaint or in his 161(3) Cr.P.C statement. 161(3) Cr.P.C statements of Pws 2 and 3 inform that during the assault on PW1 by three persons originally named, these petitioners intervened towards pacifying the parties. Given the circumstances, petition under Section 319 Cr.P.C ought not to have been allowed.

4. Heard learned Government Advocate (Crl.side) on the above submissions.

5. The Court below, merely on the say so of PW1 in the course of her examination to the effect that petitioners were assailants in the alleged occurrence, has considered it appropriate to array these petitioners as accused. If such a course is permissible, any person falsely can be implicated towards suffering the rigour of trial. In considering the petition under Section 319 Cr.P.C, it is the duty of the Court to arrive at a decision taking into account all the attendant facts and circumstances.

For the said reasons, this Criminal Revision shall stand allowed. The order of learned Judicial Magistrate, Arakonnam, passed in C.M.P.No.329 of 2010 on 27.03.2010, shall stand set aside. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1. The Judicial Magistrate
Arakonnam

2.-Do- Thro The Chief Judicial Magistrate,
Vellore District.

3. The Inspector of Police
Arakonnam Town Police Station

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4.The Public Prosecutor,
High Court, Madras.

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srg (20/01/2016)



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