

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2015
DELIVERED ON : 27.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.6550 of 2015
and M.P.Nos.1 and 2 of 2015

1.Uthirayam @ Uthiramary
2.Denismary

.. Petitioners

vs.

1.State rep by
The Inspector of Police
Arakandanallur Police Station
Arakandanallur
Thirukovilur Taluk
Villupuram District
(Cr.No.112 of 2011)

2.Paranthaman

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in S.C.No.22 of 2015 on the file of the
learned Principal Sessions Judge, Villupuram and quash the same
insofar as the petitioners are concerned.

For Petitioners : Mr.A.Ramalingam
For Respondent : Mr.C.Emalias, APP for R1

O R D E R

This petition has been filed to call for the records in
S.C.No.22 of 2015 on the file of the learned Principal Sessions
Judge, Villupuram and quash the same insofar as the petitioners are
concerned.

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

3. On a complaint lodged by one Paranthaman, the police
registered a case in Cr.No.112/2011 on 15.03.2011 for offences
under Sections 147, 148, 294(b), 324 and 307 IPC against six named
persons, including the petitioners herein. On the complaint lodged
by one Uthiramary, the respondent police registered a case in
Cr.No.113/2011 for offences under Sections 147, 148, 354, 323, 379

(N.P.) 427 IPC and Section 3(x)(i) of SC/ST Act, 1989 against nine named persons. The police conducted investigation and filed a Final Report in Cr.No.112 of 2011 only against one Francis Xavier for offences under Sections 294(b), 323 IPC and left out others. The de facto complainant filed a Protest application and satisfied the Magistrate that there are sufficient materials to proceed against the other accused whose names figure in the FIR, but whose names have been dropped by the police in the Final Report. The learned Magistrate conducted enquiry and examined 3 witnesses on the side of the de facto complainant and took cognizance of offences under Sections 147, 148, 294(b), 324, 307 and issued process to six accused, including the petitioners herein by order dated 09.06.2014. The case was committed to the Court of Sessions and taken on file as S.C.No.22 of 2015. Now the case is ripe for trial before the Sessions Court. At this juncture, the petitioners have approached this Court to quash proceedings against them.

4. The learned counsel for the petitioners contended that when there is a case and counter, the police should have to investigate one and drop the proceedings against the other or inter alia complete the investigation in both the cases and send it to the Court. It is the grievance of the petitioners that police did not take any action on the FIR in Cr.No.113/2011, which has occurred in the course of same transaction.

5. This Court carefully perused both the FIRs. The incident in Cr.No.112 of 2011 has taken place at 16 hrs on 13.03.2011 and the incident in Cr.No.113 of 2011 has taken place at 17 hrs on 13.03.2011. The former incident had taken place near the TASMACHOP shop and the latter incident had taken place in the house of the de facto complainant. May be one incident would have provided the motive for the other incident, but that alone cannot be a linking factor. Therefore, it cannot be stated that both the incidents had taken place in the course of the same transaction. There are sufficient materials on record for the prosecution to proceed against these petitioners in S.C. No.22 of 2015 in Cr.No.112 of 2011.

In the result, this petition is devoid of merits and the same dismissed with a further direction to the respondent police to complete the investigation in Cr.No.113 of 2011 and act in accordance with law. Consequently, connected miscellaneous petitions are closed.

Today, after the orders were pronounced, Mr.A.Ramalingam, learned counsel for the petitioners submitted that this Court may dispense with the appearance of the women accused before the trial Court.

2. Accepting his submission, this Court directs the women accused to be present before the trial Court for collecting the charge sheet and other relevant documents under Section 207 Cr.P.C., at the time of examination under Section 313 Cr.P.C. and

at the time of the pronouncement of the Judgment. The trial Court, shall liberally consider their petition under Section 317 Cr.P.C., provided, if they are represented by the learned counsel and on further condition that the women accused shall not dispute their identity and that their counsel will cross-examine the witness even in their absence and not adopt any dilatory tactics so as to drag the trial Court proceedings.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms/rg

To

1. The Inspector of Police
Arakandanallur Police Station
Arakandanallur, Thirukovilur Taluk
Villupuram District.

2.The Principal Sessions Judge, Villupuram

3.The Public Prosecutor, High Court, Madras.

1 cc to Mr. A.Ramalingam, Advocate, SR.No.23132

Cr1.O.P.No.6550 of 2015
and M.P.Nos.1 & 2 of 2015

pmk.20.5.2015

सत्यमेव जयते
WEB COPY