



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CRL.OP. (MD)No.22899 of 2015

1.G.Senthilkumar
2.S.Shanthi

: Petitioners

Vs.

1.The Inspector of Police
Chekkanoorani Police Station,
Madurai. (Cr.No.171/2015)

2.Muthulakshmi
W/o.Gurusamy
Nethaji Street,
Chekkanoorani
Madurai District

: Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to C.C.No.295 of 2015 on the file of the learned Judicial Magistrate, No.2, Usilampatti and quash the same.

For Petitioner : Mr.S.Vellaichamy

For Respondents : Mrs.S.Prabha
Government Advocate(Crl. Side)

O R D E R

The petitioner has come forward with this petition praying to quash the case in C.C.No.295 of 2015 on the file of the learned Judicial Magistrate, No.2, Usilampatti.

2. It is the case of the petitioner that they have been falsely implicated under Sections 294(b), 323, 506(i) IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The de-facto complainant is aged 60 years.

3. A perusal of the statement under Section 161(3) Cr.P.C. filed by the petitioner in the typed set of papers would go to show that the petitioners herein assaulted the de-facto complainant. Even though the petitioners have projected as though it is a family dispute, it could be a family dispute as long as, if any quarrel takes place within the walls of the house. When it comes to the street and when the neighbours have given a statement that the de-facto complainant was assaulted by the petitioners, naturally, the matter will have to be dealt with in accordance with law and that a



case has been registered, charge sheet has been filed in C.C.No.295 of 2015.

4. As there is disputed question of facts involved, in view of the Judgment of the Hon'ble Supreme Court in **HMT Watches Ltd., Vs. M.A.Abida & Another** reported in **(2015(2) CTC 446)** wherein, it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaints, I find no grounds to quash the case in C.C.No.295 of 2015. Accordingly, the Criminal Original Petition stands dismissed. Consequently connected Miscellaneous Petitions are closed.

5. At this stage, the learned counsel appearing for the petitioners submitted that the presence of the petitioners before the trial Court may be dispensed with.

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

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.2, Usilampatti.
2. -Do-Thro The Chief Judicial Magistrate, Madurai District.
3. The Inspector of Police, Chekkanoorani Police Station, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+lcc to Mr.S.Vellaichamy, Advocate Sr.No.69047

akm/04.01.2016/2p-5c/AAL/MPA

Order made in
CRL.OP.(MD)No.22899 of 2015
Dated:- 03.12.2015