

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.13389 of 2016
and
CRL.M.P.Nos.6875, 6876 of 2016

1.A.Shanmugam Mudhaliyar
2.K.K.Anandhan
3.A.Neelakandan
4.V.Mahendran

... Petitioners

Vs

State rep by

1.The Inspector of Police,
B-2 Taluk Police Station,
Tiruvallur, Tiruvallur District.

2.K.Jyothi Baskar

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in CC.No.119 of 2015 on the file of the Judicial Magistrate-I Court, Tiruvallur and quash the same as illegal.

For Petitioners : No appearance

For 1st Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

On account of boycott of Courts, there is no representation on the side of the petitioners. However, in Harish Uppal [Ex.Capt.] Vs Union of India reported in [2003] 2 SCC 45, the Hon'ble Supreme Court has held that boycott of Courts is illegal and therefore, this Court went through the records, heard the learned Additional Public Prosecutor appearing for the 1st respondent and passed the following order.

2. On the complaint lodged by Jyothi Baskar, the 1st respondent police have registered a case in Crime No.422 of 2013 on 17.12.2013 and after completing investigation, filed final report in CC.No.119 of 2015 against the petitioners

herein for offences under Section 147, 341, 323 and 506[i] IPC. Challenging which, the petitioners are before this Court.

3. On going through the final report, it is the case of the de facto complainant that on 11.06.2013 around 9.15 p.m. on account of previous enmity, the petitioners herein accosted the de facto complainant and attacked him, resulting injuries. The police have examined Dr.Shoba at Government Hospital, Tiruvallur, who had given treatment to the injured. The principal ground raised by the petitioner is that in respect of the incident that had been taken place on 11.06.2013, the FIR was registered only on 17.12.2013 and therefore, the prosecution was vitiated.

4. On reading of the FIR, it is seen that the de facto complainant had to obtain a direction from the High Court for registering the FIR and only thereafter, the FIR has been registered by the police. That apart, delay in registration of FIR cannot be said to be fatal in all cases. Since there are sufficient materials for the trial to proceed, the proceedings cannot be quashed in the light of the law laid down by the Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal -1992 Supp [1] SCC 335. Hence, this petition stands dismissed.

5. However, taking into consideration the age of A.Shanmugam Mudhaliyar [A1] and A.Neelakandan [A3], their presence before the trial Court is dispensed with, on condition that they shall furnish a bond of Rs.10,000/- with two sureties under Section 88 Cr.P.C. to the satisfaction of the learned Judicial Magistrate-I, Tiruvallur. The petitioners are directed to be present for receiving copies under Section 207 Cr.P.C., for answering charges, for questioning under Section 313 Cr.P.C. and at the time of passing judgment. The petitioners shall file an affidavit of undertaking, before the trial Court that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses on the day they are examined in-chief and that he will not adopt dilatory tactics. On such undertaking, the trial Court shall dispense with the personal appearance of Shanmugam Mudhaliyar [A1] and Neelakandan [A3]. If the petitioners adopts any dilatory tactics, the trial Court can insist on their presence. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

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To

1.The Inspector of Police,
B-2 Taluk Police Station,
Tiruvallur, Tiruvallur District.

2.The Judicial Magistrate No.I,
Tiruvallur.

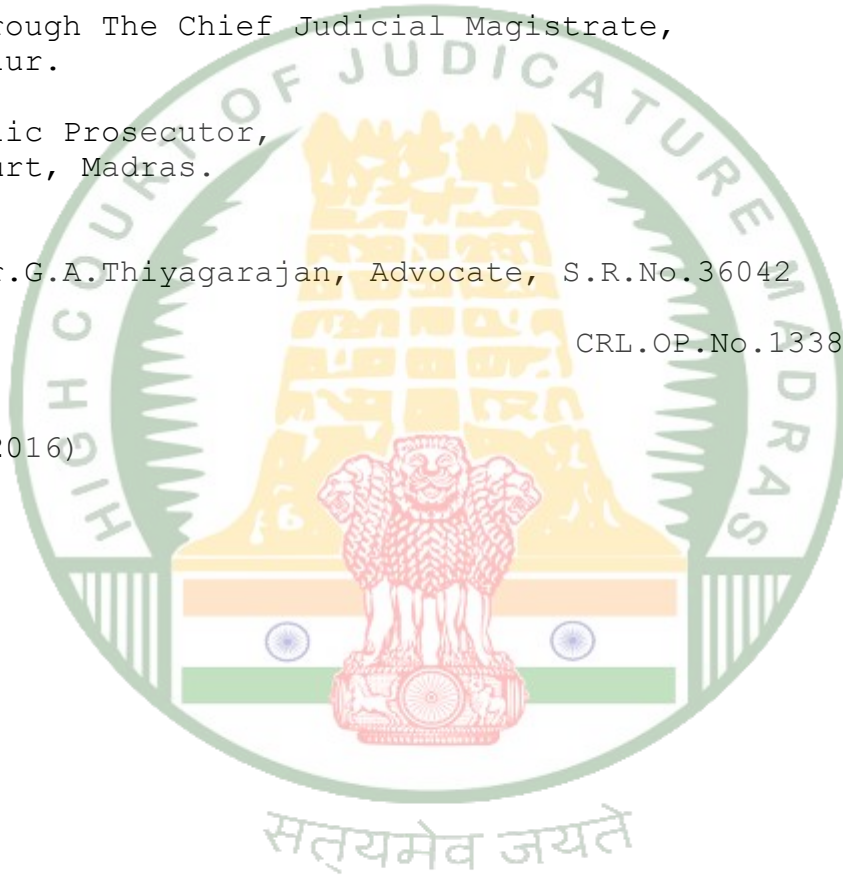
3.-Do- Through The Chief Judicial Magistrate,
Tiruvallur.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.A.Thiyagarajan, Advocate, S.R.No.36042

CRL.OP.No.13389 of 2016

SKV(CO)
CA(13/07/2016)



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