

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.9990 of 2016 and Crl.M.P. No.5295 of 2016

1 A. Iniyavan @ Ramachandran
2 Pitchamuthu
3 Karthikeyan Petitioners

Vs

1 The State represented by
Inspector of Police
Ambur Town Police Station
Vellore District
2 Stephen Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C. No.278 of 2015 on the file of the Judicial Magistrate, Ambur, Vellore District and quash the same as illegal.

For petitioners Mr. R. Sankarasubbu

For R1 Mr. C. Emalias, Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in C.C. No.278 of 2015 on the file of the Judicial Magistrate, Ambur, Vellore District and quash the same as illegal.

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

3 On the complaint lodged by Stephen, the second respondent herein, the first respondent police registered a case in Crime No.299 of 2014 and after completing the investigation, has filed a final report in C.C. No.278 of 2015 against the petitioners for offences under Section 294(b), 324, 323 and 506 (II) IPC before the Judicial Magistrate, Ambur.

4 It is the case of the de facto complainant that on 21.08.2014, around 7.00 a.m., the accused had assaulted him, causing grievous injuries.

5 In the complaint and the Section 164 statement of the de facto complainant, it is stated as to how the incident had taken place. That apart, the police have also recorded the statement of Dr. Arivumani, who had given treatment to the de facto complainant and has given a certificate stating that the injuries are simple in nature. Thus, there are sufficient materials for the trial to proceed against the petitioners.

6 The learned Additional Public Prosecutor appearing for the first respondent State submitted that the charges were framed on 15.04.2016 and the case is now posted for trial on 19.07.2016. In the meantime, the petitioners have approached this Court for quashing the charge sheet. Since there are sufficient materials for the prosecution to proceed further, this is not a fit case for quashing the charge sheet.

7 However, the learned Additional Public Prosecutor submitted that the petitioners and the de facto complainant have arrived at a compromise and therefore, the prosecution could be quashed.

8 If the petitioners and the de facto complainant have arrived at a compromise, then, it is open for them to file a joint compromise memo along with which, they can approach this Court for quashing the prosecution, if so advised.

9 The learned counsel for the petitioners submitted that since the first accused is an advocate in the local Bar, he may feel embarrassed and therefore, his presence may be dispensed with.

10 Acceding to the submission made by the learned counsel for the petitioners, the first accused is directed to be present for receiving the charge sheet, for answering the charge, at the time of questioning under Section 313, Cr.P.C. and at the time of passing judgment. The first accused shall file an affidavit of undertaking before the Trial Court that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinoth Kumar vs. State of Punjab, 2015 (1) MLJ (CrL.) 288. On such undertaking, the trial Court shall dispense with the personal appearance of the first accused. If the first accused adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence and remand him to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319].

In the result, this Criminal Original Petition is dismissed with the above observations. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Inspector of Police
Ambur Town Police Station
Vellore District
 - 2 The Judicial Magistrate
Ambur
Vellore District
 - 3 Do Thro The Chief Judicial Magistrate
Vellore District.
 - 4 The Public Prosecutor
High Court, Madras
- 1 cc to Mr.R.Sankara Subbu, Advocate, sr.35095

Crl.OP No.9990 of 2016

skv co
kra 12.07.2016

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