



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP(MD) No.6852 of 2016

and

CRL MP(MD) Nos.3453 & 3454 of 2016

1.Madavan

2.Pandieswari

3.Velusamy

4.Muthupandi

5.Sekar

6.Ponnusamy

..Petitioners/Accused 1 to 6

Vs

1.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District

2.Pushpavalli

.. Respondents/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.221 of 2015 on the file of the Judicial Magistrate No.2, Virudhunagar and quash the same.

For Petitioner

: Mr.A.Shahjahan

For Respondents

: Mrs.S.Prabha for R1

Government Advocate (Cr1. Side)

O R D E R

This petition has been filed to quash the case in C.C.No.221 of 2015 on the file of the Judicial Magistrate, No.2, Virudhunagar.

2. On the complaint lodged by Pushpavalli, the respondent police registered a case in Crime No.247 of 2015 for offences under Sections 147, 294(b), 323, 506(i) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act against these accused and after completing the investigation, they have filed a final report in C.C.No.221 of 2015. Challenging which, the petitioners/accused are before this Court.



3. It is the case of the de-facto complainant that on 14.07.2015 around 5.00 in the morning, the 1st accused Madavan attacked her and abused her and the other accused had also assaulted her.

4. The learned counsel for the petitioners submitted that the petitioners and the de-facto complainant are close relatives and that the entire case is fabricated by the de-facto complainant. In support of this contention, the learned counsel submitted that in the accident register, the de-facto complainant has stated that she was assaulted by 6 known persons and 2 unknown persons. But, whereas the police have filed a final report only against 6 persons leaving the two unknown persons.

5. In the considered opinion of this Court, that cannot be a reason to quash the chargesheet inasmuch as the de-facto complainant in her 161 Cr.P.C. statement has named all the 6 persons, who have been arrayed as accused in C.C.No.221 of 2015. The learned counsel further submitted that Madavan/A1 and A.Pandeeswari/A2 are in Sivaganga and Muthupandi (A4) is in Trivandrum and they could not have been present at the scene of occurrence on the said date and time. The defence of alibi cannot be looked into while dealing with the application for quash under Section 482 Cr.P.C. and that is the fact, which is to be proved by the accused in the manner known to law during trial. The police have examined Dr.Krishnakumar, who in his statement, has stated that he had given treatment to the de-facto complainant and had referred her to the Government hospital, in spite of which, she did not go there. The fact remains that the de-facto complainant had undergone treatment immediately after the incident and that is why Section 323 IPC has been invoked. Since there are sufficient materials for the trial to go on, it is not a fit case to grant the relief as prayed for. Accordingly, this petition is dismissed. However, the presence of the petitioner/A4 is dispensed with on the ground that she is having a child below one year and it is open for the trial Court to insist upon the presence of the 4th petitioner as and when required. Consequently connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.



1.The Judicial Magistrate No.2, Virudhunagar.

2.The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.A.Shahjahan, Advocate, SR No.24019

RG.MP/12.05.2016 3P.5C

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