



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.04.2016

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.7145 of 2016
and
Crl.M.P.(MD) Nos.3611 & 3612 of 2016

1.Hariharan
2.Athimoolam
3.Madasamy

... Petitioners / Accused 1 to 3

vs.

1.State : Sub Inspector of Police
Munnerpallam
Tirunelveli District

... 1st Respondent / Complainant

2.Paramasivan

... 2nd Respondent / *De facto*
Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records of the charge sheet in C.C.No.162 of 2016, on the file of the learned Judicial Magistrate Court No.V, Tirunelveli and quash the same.

For Petitioner : Mr.V.Kannan

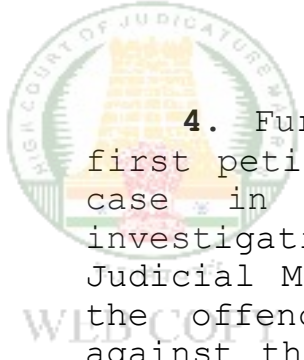
For Respondents : Mrs.S.Prabha, G.A.(Crl.Side) for R1

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking quashment of the proceedings in C.C.No.162 of 2016, on the file of the learned Judicial Magistrate Court No.V, Tirunelveli.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the first respondent.

3. It is seen that on the complaint lodged by the second respondent, the first respondent Police registered a case in Crime No.273 of 2015 and after completion of investigation, they filed a final report, before the learned Judicial Magistrate No.V, Tirunelveli, in C.C.No.162 of 2016, for the offences under Sections 294(b), 324 and 506(ii) I.P.C., against the petitioners herein, challenging which the petitioners / accused 1 to 3 are before this court.



4. Further, it is seen that on the complaint lodged by the first petitioner herein, the first respondent Police registered a case in Crime No.272 of 2015 and after completion of investigation, they filed a final report, before the learned Judicial Magistrate No.V, Tirunelveli, in C.C.No.161 of 2016, for the offences under Sections 294(b), 323 and 506(ii) I.P.C., against the *de facto* complainant in Crime No.273 of 2015 and his brothers.

5. In this case, both the parties appear to have sustained injuries and both of them have been admitted in Hospital and treated by Dr.Shyam Sundar. Therefore, these are case and counter. In a case of this nature, it is for the Trial Court to decide who is the actual aggressor. Since the final report in C.C.No.162 of 2016 *prima facie* discloses the commission of offence, it is not open for this Court to interfere into it at this juncture and it is open for the petitioners / accused 1 to 3 to appear before the Trial Court and establish that the opposite parties are the real aggressors.

6. In the result, this criminal original petition fails and it is dismissed. The learned Judicial Magistrate No.V, Tirunelveli, is directed to expeditiously conduct the trial in both C.C.Nos.161 and 162 of 2016 simultaneously and proceed further in accordance with law.

7. At this juncture, the learned counsel for the petitioners / accused 1 to 3 submitted that the petitioners / accused 1 to 3 are ready to co-operate for trial by engaging Advocate and cross-examine the prosecution witnesses on the day they are examined in chief. Recording the same, the learned Trial Judge is directed to complete the trial in C.C.No.162 of 2016, within a period of six months from the date of receipt of a copy of this Order. If the accused do not co-operate in the conduct of trial by cross-examining the prosecution witnesses as and when they examined in chief as held by the Apex Court in **Vinod Kumar vs. State of Punjab**, reported in **2015 (1) MLJ 288 (SC)**, it is open to the learned Trial Judge, to remand the accused to custody as per Section 309 Cr.P.C. and also as per the decision laid down by the Honourable Supreme Court in **State of U.P. Vs. Sambhunath Singh**, reported in **2001(4) SCC 667**. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

Madurai Bench of Madras High Court,
Madurai.



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To

1.The Judicial Magistrate Court No.V,
Tirunelveli.

2.The Sub Inspector of Police
Munnerpallam
Tirunelveli District.

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

rg.GSV/12.05.2016 3P/4C

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and
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