

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 02.08.2017)

(Pronounced on : 8.12.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.11626 of 2014

and

M.P.Nos.1 and 2 of 2014

1. K.Valluvan
2. Vasanthi
3. Vaishnavi
4. Vaishali @ Lakshmi ... Petitioners/Accused 1 to 4

.. Vs ..

1. The State,
Rep. by Sub-Inspector of Police (L & O),
V-3, J.J.Nagar Police Station,
Mugappair, Chennai - 600 037. ... 1st Respondent/Complainant

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

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.417 of 2013 pending on the file of the learned Judicial Magistrate, Ambathur, and quash the same as against the petitioners.

For Petitioners : Mr.Haja Nazirudeen, Senior Counsel
for Mr.P.Manikannan

For R-1 : Mr.B.Ramesh Babu,
Government Advocate (Crl.Side)

For R-2 : Mr.J.Franklin

ORDER

The petitioners herein, who are accused Nos.1 to 4, have filed this criminal original petition under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No.417 of 2013 pending on the file of the learned Judicial Magistrate, Ambathur.

2. The first respondent/Sub-Inspector of Police, Law and Order, J.J.Nagar police station, Mugappair, Chennai, has filed final report in Crime No.1100 of 2013 for the alleged offences under Sections 294(b) and 506(ii) IPC against the present petitioners herein/accused Nos.1 to 4.

3. The case of the prosecution is that both parties viz., accused Nos.1 to 4 and the de facto complainant were residing at Door No.361/12, in Golden George Nagar, Sowmiya Manor Apartments, Mugappair East, Chennai and on 10.11.2012 at about 11.00 a.m., all the accused have abused the de facto complainant/second respondent herein, who was examined as L.W.1, in filthy language, threatened her and criminally intimidated at the knife point and hence, final report has been filed under the above said Sections.

4. Learned counsel appearing for the second respondent/de facto complainant submitted that all the petitioners herein/accused Nos.1 to 4 are one of the residents in the Sowmiya Manor Apartments and the de facto complainant/L.W.1 is also a resident of the same Apartments and accused Nos.1 to 4 belong to the same family and there was irregularity in payment of maintenance to Apartment Welfare Association and not extending the co-ordination to keep the environment and common area clean and always caused hindrance which has resulted in a civil suit and subsequently, the petitioners/accused Nos.1 to 4 came to the house of the de facto

complainant, abused her in filthy language and criminally intimidated her in the presence of other witnesses viz., the residents in the said apartments, and hence, the complaint.

5. Learned Government Advocate (Crl.Side) appearing for the first respondent has made submissions regarding receipt of the complaint and registration of the FIR and laying of charge sheet by the police after investigation.

6. This Court has considered the rival submissions made by the learned counsel and perused the statements given by the witnesses viz., L.W.1-Kalaiselvi, L.W.2-Asohan, who is the husband of the defacto complainant Kalaiselvi, L.W.3-V.V.Jeyaprakash, L.W.4-Rajalakshmi @ Rama, L.W.5-V.Rajesh and L.W.6-R.Asha.

7. On a perusal of the statements given by L.Ws.1 to 6, this Court finds that sufficient materials have been surfaced during the course of investigation by the first respondent Police in connection with the complaint given by L.W.1/Kalaiselvi and accordingly, laid the charge sheet.

8. Learned counsel appearing for the petitioners would submit that there is previous enmity between the parties and the same has led to the filing of the criminal complaint.

9. Previous enmity as a motive for criminal action is a double edged weapon and the same has to be tested only at the time of trial. The another point that was raised by the learned counsel for the petitioners is that at the time of the alleged occurrence, the first accused was working in his office. In other words, a plea of alibi was projected on behalf of the first petitioner/first accused. In my considered opinion, the same has to be gone into only at the time of trial. After going through the statements of L.Ws.1 to 6 and also the other materials annexed in the final report, this Court is of the considered opinion that all the points raised by the petitioners can be gone into only at the time of trial and not at this stage in exercise of powers conferred under Section 482 of Cr.P.C. and hence, in view of the statements of L.Ws.1 to 6, this Court is of the considered view that during the investigation by the first respondent police, sufficient materials have been surfaced for leading to the filing of the final

report and the veracity of the prosecution witnesses has to be decided only during the trial and hence, this Criminal Original Petition is devoid of merits and the same is liable to be dismissed.

10. In the result, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

11. The learned Judicial Magistrate, Ambathur, is directed to complete the trial in C.C.No.417 of 2013 within a period of twelve weeks from the date of receipt of a copy of this order.

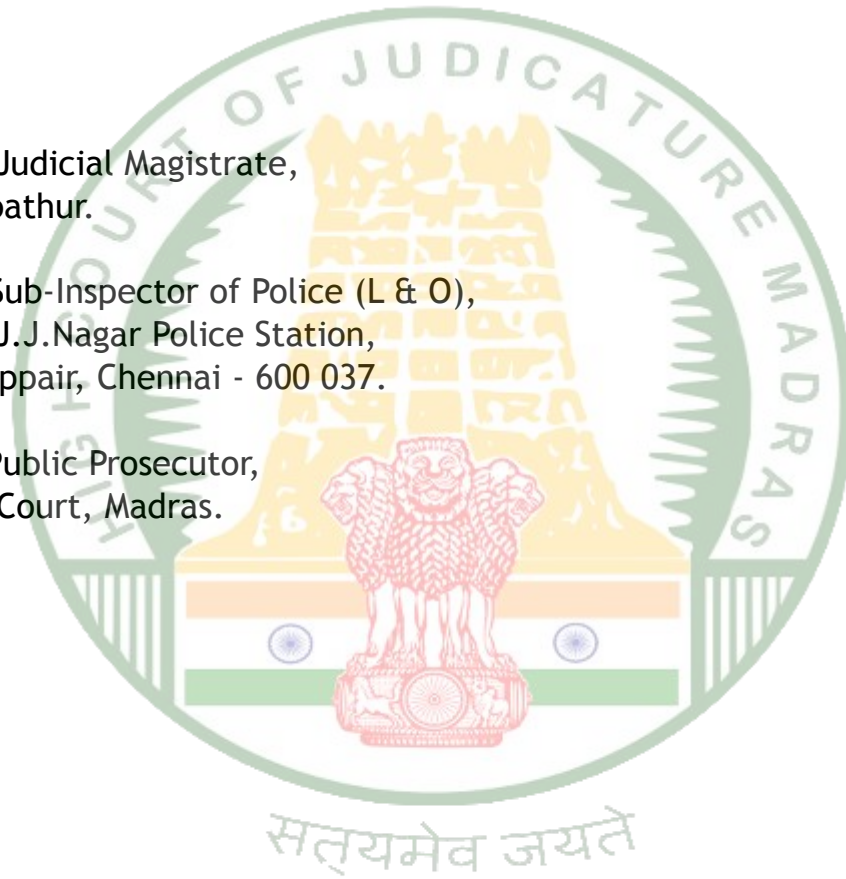
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Index : Yes / No
Internet : Yes
Jrl

Note:- The Registry is directed to send the back papers to the learned Judicial Magistrate, Ambathur, within one week.

To

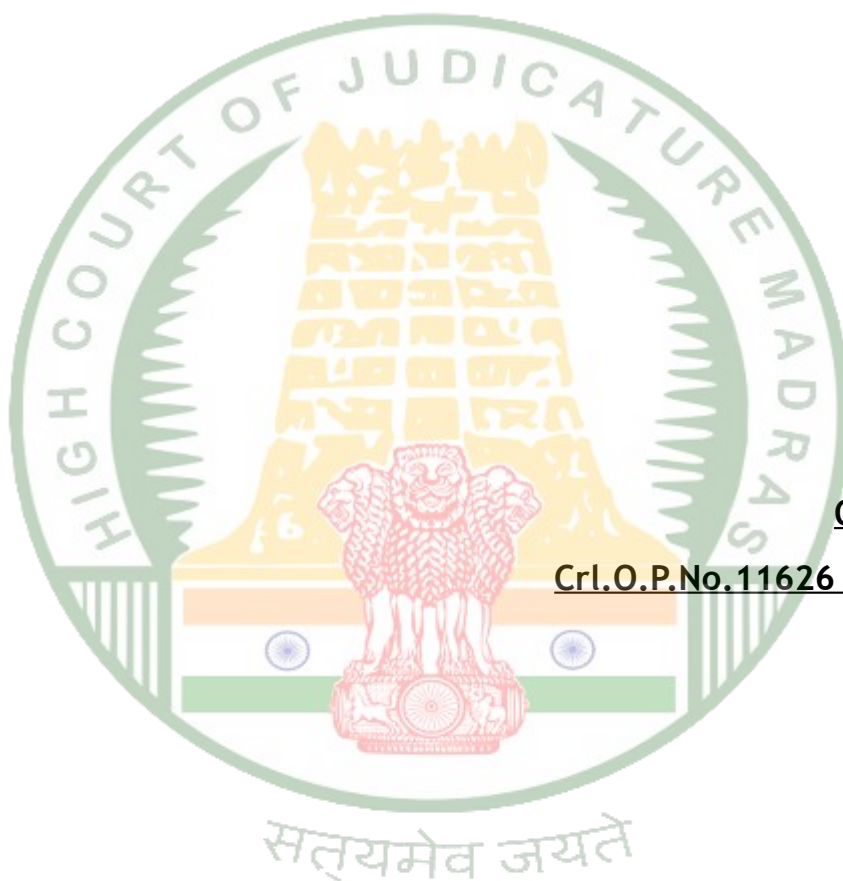
1. The Judicial Magistrate,
Ambathur.
2. The Sub-Inspector of Police (L & O),
V-3, J.J.Nagar Police Station,
Mugappair, Chennai - 600 037.
3. The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN, J.

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Order in
Crl.O.P.No.11626 of 2014

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