

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2017

CORAM:

THE HON'BLE MR.JUSTICE N.AUTHINATHAN

Cr1.O.P.No.9593 of 2010

&

M.P.No.1 of 2010

1.R.Kalaimani
2.R.Elamparithi
3.R.Ilanchezian

.. Petitioners/Accused

Vs.

1.State rep. By
Inspector of Police,
Malayampalayam Police Station,
Erode District.
(Crime No.205 of 2008)

2.Chinnasamy @ Jaganathan
S/o.Rasappan,
Sathirapatti,
Kolanalli Post,
Erode Taluk and District

.. Respondents/Complainant

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure seeking to call for the records in C.C.No.31 of 2010 on the file of the Judicial Magistrate-I, Erode and quash the same as illegal.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.P.Govindarajan

Public Prosecutor for R1

for R2 : Mr.R. Maruthachalamurthy

O R D E R

The petitioners herein are accused in C.C.No.31 of 2010 on the file of the Judicial Magistrate I, Erode. A case was registered on the allegations that on 21.09.2008 at about 17.00 hours, the first accused abused the defacto complainant using obscene language and that the second accused beaten up the defacto complainant using a stick and that the third accused pushed him down and thereby caused simple injury to the defacto complainant and that the accused have criminally intimidated the defacto complainant.

2.After completion of investigation, a charge sheet was laid into the Court for the offence under Sections 294(b), 323 and 506(i) of IPC and the learned Judicial Magistrate has taken the matter on file and issued summons to the petitioners. Charges were framed. The accused pleaded not guilty.

3.Learned counsel for the petitioners would submit that the defacto complainant unleashed violence against the petitioners herein and that the third accused sustained injury and he lodged a complaint with the police and on the basis of the said compliant, a case in Cr.No.206 of 2008 has been registered, however, the first respondent/Investigating Officer failed to follow the procedure prescribed under Clause 588 of Police Standing Orders and as far as the presence case is concerned, no offence is made out, hence, proceedings in C.C.No.31 of 2010 on the file of the Judicial Magistrate I, Erode, are liable to be quashed.

4.Learned Public Prosecutor would submit that the trial has already commenced and the PW1 to PW6 were cross examined. But the defence counsel has not chosen to cross examine those witnesses so far.

5.A perusal of the materials would show that the prosecution has furnished materials to enable the learned Judicial Magistrate to take cognizance of the offences and proceed against the petitioners herein. The petitioners have not approached this Court immediately after receipt of summons or after framing of charges. As the trial has commenced and witnesses have been examined, it is for the trial Court to appreciate the evidences. Under these circumstances, this Court is not inclined to quash the proceedings.

6.Therefore, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate,
Erode.

2.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.M. Guruprasad, Advocate Sr. 5556

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