



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL OP (MD) No.11324 of 2017

and

CRL MP (MD) Nos.7778 & 7779 of 2017

- 1.Rajendhar
- 2.Mahendhar
- 3.Arokiyam
- 4.John Juliyas

: Petitioners/Accused No.1 to 4

Vs.

- 1.The Sub Inspector of Police,  
Surankudi Police Station,  
Thoothukudi.

: 1<sup>st</sup> Respondent/Complainant

- 2.Thomasvas

: 2<sup>nd</sup> Respondent/Defacto Complainant

**PRAYER:** Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in pursuant to the criminal case in C.C.No.20 of 2015 on the file of the Judicial Magistrate Court, Thoothukudi District as against these petitioners.

For Petitioners : Mr.S.Loganathan

For 1<sup>st</sup> Respondent : Mr.K.Anbarasan,

Government Advocate (Crl.Side).

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### **ORDER**

This Criminal Original Petition is filed to call for the records in pursuant to the criminal case in C.C.No.20 of 2015 on the file of the Judicial Magistrate Court, Thoothukudi District.

2. Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Criminal side) appearing for the respondents.

3. This petition is filed to quash the proceedings in C.C.No.20 of 2015 on the file of the learned Judicial Magistrate, Vilathikulam Thoothukudi District as against the petitioners. It is not in dispute that the charge sheet was filed in C.C.No.20 of 2015 on the file of the Judicial Magistrate Court, Vilathikulam Thoothukudi District, based on the criminal complaint that was given by the second respondent, which was registered in Crime No.58



of 2012 on the file of the first respondent police, for the offences punishable under Sections 294(b), 324 and 506 (ii) of IPC. The charge sheet was filed on the basis of the statement obtained from various persons apart from the statement of the complainant.

4. The contention of the learned counsel appearing for the petitioners is that the complaint lodged as against the petitioners is a false one and that they do not constitute any offence as against the petitioners. This contention is incorrect in as much as the complaint discloses cognizable offence and the incident occurred on 27.05.2012. The further contention of the learned counsel appearing for the petitioners is that the impugned charge sheet is filed on the basis of false complaint motivated and given only to wreck vengeance as against the petitioners by the defacto complainant. It was further submitted by the learned counsel appearing for the petitioners that a complaint was earlier filed by the petitioners as against the de facto complainant and that the charge sheet arising out of the complaint lodged by the de facto complainant is nothing but a counter case which was given only to precipitate the earlier complaint. It was further contended by the learned counsel appearing for the petitioners that there is no chance of conviction and that the charge sheet is nothing but abuse of process of law.

5. From the perusal of the records this Court is not in a position to appreciate any of the submission made by the learned counsel appearing for the petitioners. When the charge sheet clearly disclose the commission of cognizable offence, this Court at this stage will not entertain the factual dispute. But, the question whether the petitioners are involved in the offences cannot be adjudicated at this stage. The de facto complainant should be given full opportunity to prove the case as against the petitioners, who are arrayed as accused. The petitioners are at liberty to prove their case on materials and evidence at the time of trial. In that view, this petition is dismissed as devoid of merits. Consequently, connected Miscellaneous Petitions are closed.

6. It is submitted by the learned counsel appearing for the petitioners that the petitioners are living in Coimbatre and that their appearance may be dispensed with.

7. Considering the fact that the petitioners are staying at Coimbatore and this is a case of case and counter case, this Court is inclined to dispense with the personal appearance of the petitioners until or otherwise their appearance are specifically required by the order of the Court below.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1.The Sub Inspector of Police,  
Surankudi Police Station,  
Thoothukudi.

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

+1cc to Mr.S.LOGANATHAN Advocate in SR. No.75747

TRP

JS/MR.KKR/SAR.1/12.09.2017/3P-4C

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