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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2017

CORAM:

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

CRL.O.P. (MD) No.14769 of 2017

and

CrI.M.P. (MD) Nos.9838 and 9839 of 2017

1.Rajesh

2.Sreekumaran Nair

: Petitioners / Accused

-Vs-

1.The Inspector of Police,
Thuckalay Police Station,
Cr.No.620 of 2014,
Kanyakumari District.

: 1st Respondent

2.Parvathy

: 2nd Respondent / De-facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.136 of 2017 on the file of the learned Judicial Magistrate, Padmanabapuram and quash the same.

For Petitioners : Mr.P.Bhaskar

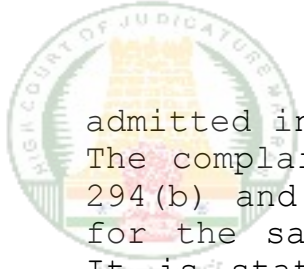
For Respondent 1 : Mr.K.S.Durai Pandian

Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed for quashing the charge sheet in C.C.No.136 of 2017 on the file of the Judicial Magistrate, Padmanabapuram.

2.The second respondent lodged a complaint against the petitioners and the complaint was registered in Crime No.620 of 2014 on 14.08.2014. The same was also taken on file after filing charge sheet in C.C.No.136 of 2014 before the learned Judicial Magistrate, Padmanabapuram. In the complaint of the second respondent, it is stated that the petitioners and two other persons were uprooting the produce of sweet roots (machinni) from her agricultural land in Survey No.107/4 at Kalkulam village and that on her questioning the same, the accused abused her in filthy language. It was further stated in the complaint that the de-facto complainant was also slapped on face and chest with hand by the accused. The de-facto complainant also has further stated in the complaint that she was



admitted in the hospital before lodging the complaint on 14.08.2014. The complaint was registered for offences punishable under Sections 294(b) and 323 IPC and Section 4 of Women Harassment Act, 2002 and for the same offence, the first respondent laid the charge sheet. It is stated in the petition that there was dispute between the petitioners and the predecessor in interest of the de-facto complainant in respect of the property in Survey No.107/4 at Kalkulam village and that the said dispute was adjudicated finally in favour of the petitioners herein by an order dated 03.08.2000 in W.P.No.5254 of 1992. It is stated that the father of second petitioner was recognised as the cultivating tenant by the District Revenue Officer, Kanyakumari District at Nagercoil and that the said order was also confirmed by this Court in W.P.No.5254 of 1992. Since the complaint itself was lodged as if the petitioners had trespassed into the property in Survey No.107/4 at Kalkulam village, it is suggested that the de-facto complainant / second respondent had given a false complaint and that the complaint was motivated because of the civil dispute between the petitioners and the second respondent. It is further stated that the allegations found in the complaint do not attract any of the provisions of Indian Penal Code and that the false complaint was lodged with an intention to wreck vengeance and evict the petitioners herein from Survey No.107/4 at Kalkulam village in respect of which the second petitioner's predecessor-in-interest was a cultivating tenant.

3.The learned counsel for the petitioner submitted that the de-facto complainant was admitted in hospital before lodging the complaint and that the complainant herself has stated in the complaint that she was assaulted without causing any bodily injury. It was further stated that the Doctor who gave treatment to de-facto complainant has given report that there was no injury and that such statement would show that there was no such occurrence as complained by the de-facto complainant.

4.The incident in the complaint lodged by the second respondent is stated to have been occurred in the place where the petitioner's predecessor-in-interest was found to be cultivating tenant. Hence, the petitioner's version that there was dispute between the petitioners and the second respondent in respect of the property in Survey No.107/4 at Kalkulam Village is a fact and this may also be a strong circumstance in favour of the petitioners to prove that that complainant has suppressed an important fact while giving the complaint and that the petitioners cannot be termed as aggressors. However, the de-facto complainant also should be given a fair opportunity to prove her version and that the contentions of the petitioners with regard to the incident that occurred on 03.08.2014. Truth or otherwise of the allegations cannot be gone into at this stage and unless the complaint does not disclose any cognizable offence, there can be no interference. Except the factual contentions denying that the allegations found in the complaint and pointing out the motive behind the complaint, no other legal point is raised by the learned counsel for the petitioners to quash the



charge sheet in C.C.No.136 of 2017 on the file of learned Judicial Magistrate. It is open to the petitioners to submit all their contentions and raise objections at the time of trial. Hence, this Court is not inclined to entertain this petition purely on probabilities or lack of evidence.

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5.As a result, the above Criminal Original Petition is dismissed. However, considering the age of the second petitioner and the fact that the occurrence took place in a place in respect of which the petitioners' predecessor-in-interest was held to be a cultivating tenant in possession, this Court is inclined to dispense with the appearance of the petitioners unless and until their appearance is specifically required by an order of Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Padmanabapuram.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SRM

JS/SV.MMS/SAR.4/22.12.2017/3P-4C

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