



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.14779 of 2017

and

Crl.M.P.(MD)Nos.9846 and 9847 of 2017

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R.Jerin @ Jerin Raj : Petitioner / Sole Accused

-Vs-

1.The State

Rep. by its Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

Crime No.293 of 2015 : Respondent / Complainant

2.Rajaiyan

: Respondent / De-facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in S.T.C.No.615 of 2017 on the file of the Judicial Magistrate Court No.I, Kuzhithurai and quash the same.

For Petitioners : Mr.S.Sivakumar

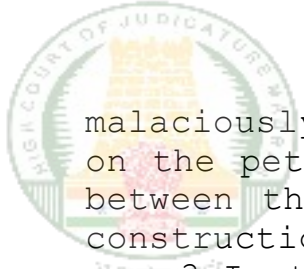
For Respondent 1 : Mr.K.S.Durai Pandian

Additional Public Prosecutor

O R D E R

This Criminal Original Petition is to quash the proceedings in S.T.C.No.615 of 2017 on the file of the Judicial Magistrate No.I, Kuzhithurai.

2.The second respondent lodged a complaint and the same was registered in Crime No.293 of 2015 for the alleged offences punishable under Sections 341, 294(b), 327, 506(i) of I.P.C. After filing the charge sheet, the case was taken on file in S.T.C.No.615 of 2015 before the learned Judicial Magistrate No.I, Kuzhithurai for the same offences. Stating that the complaint was lodged by the second respondent due to previous enmity because of the civil dispute between the second respondent and the petitioner's aunt, the petitioner who is the sole accused in the criminal case has filed the petition to quash the charge sheet in S.T.C.No.615 of 2017. The petitioner states that he is an Engineering graduate and that the complaint has been lodged by the second respondent only to spoil the future life based on the false allegations. The learned counsel for the petitioner submitted that the complaint of the second respondent is a fraudulent one



maliciously instituted with an ulterior motive to wreck vengeance on the petitioner. It is further stated that there was a dispute between the petitioner's aunt and the second respondent over the construction of a compound wall by the petitioner's aunt.

3. In the complaint, the second respondent stated that he is a retired Headmaster of school and that he questioned the petitioner's aunt when she constructed the compound wall depriving sufficient space to the public to take water from the common pipe line. It is further stated that on account of such enmity, the second respondent was obstructed when the de-facto complainant was walking in front of the petitioner's house and assaulted him and abused him with filthy language apart from threatening the de-facto complainant. The learned counsel for the petitioner submitted that the second respondent before lodging the complaint went to the Doctor and gave a statement at the first instance as if the place of occurrence is in front of the Church at Choozhakal Vilai. However, in the complaint lodged by him, the place of occurrence is in front of the petitioner's house. It is further stated that the second respondent told the Doctor who treated him that he was attacked with iron rod. However, he informed the first respondent that he was attacked with wooden stick. The learned counsel for the petitioner therefore submitted that the complaint is not specific with regard to the material object and the place of occurrence and that therefore, this Court should quash the complaint.

4. The learned counsel for the petitioner further submitted that there is a discrepancy as to the time of occurrence between the complaint as well as the statement of the second respondent before the Doctor. Since the complaint was cooked up after discussion and deliberation, it is stated that the de-facto complainant has made this alterations with ulterior motive. Except stating that there are some discrepancies between the information that was furnished by the second respondent before the police and the statement recorded by the Doctor who gave treatment to the de-facto complainant, the learned counsel for the petitioner has not advanced any legal points so as to entertain this petition. The de-facto complainant is a retired Headmaster and no motive is attributed for him to file a false complaint as against the petitioner. It is well settled that truth or otherwise of the allegations made in the complaint cannot be gone into in the proceedings for quashing the complaint or for quashing the charge sheet. On a bare perusal of the complaint, offence is made out. Merely because there are some discrepancies, the charge sheet cannot be quashed. The right to prove the case cannot be denied to the de-facto complainant. Since this Court cannot embark upon an enquiry whether the allegations in the FIR or the charge sheet are reliable and to render a finding about the truthfulness or veracity of the allegations, this Court is not inclined to entertain this petition where the petitioner has not raised any other legal issues except denying the truth of the allegations made in the complaint.



5. For all the above reasons, this Criminal Original Petition cannot be entertained and hence, the same is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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6. The learned counsel for the petitioner seeks indulgence of this Court to give a direction to the lower Court to dispose of the case within a time limit specified by this Court. Hence, the learned Judicial Magistrate No.I, Kuzhithurai, is directed to expedite the trial and dispose of the proceedings in STC No.615 of 2017 within a period of four months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Kuzhithurai.

2. The Chief Judicial Magistrate,
Kanniyakumari at Nagercoil.

3. The Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.

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

+1cc to Mr.S.SIVAKUMAR, Advocate, SR. 84997

CRL.O.P. (MD) No.14779 of 2017
02.11.2017

SRM

KK/JC/SAR 4/05.01.2018/ 3P- 6C/