



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:29.08.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.2346 of 2017

and

CrI.M.P. (MD) Nos.1838 and 1839 of 2017

1.T.Sudhar
2.T.Subin

... Petitioner/ Accused No.1
... Petitioner/ Accused No.2

-Vs-

1. State represented by
The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
(Crime No.612 of 2015)

... 1st Respondent/Complainant

2.John Jebakani

... 2nd Respondent/defacto Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in P.R.C.No.44 of 2016 on the file of the District Munsiff Cum Judicial Magistrate, Eraniel in Crime No.612 of 2015 on the file of the first respondent police and quash the same.

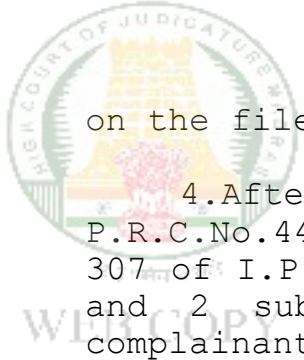
For Petitioner	: Mr.R.Rajesh Kumar
For R-1	: Mr.K.Anbarasan, Government Advocate (CrI.Side)
For R-2	: Mr.EV.N.Siva

O R D E R

This Criminal Original Petition is filed to call for the records pertaining to the charge sheet in P.R.C.No.44 of 2016 on the file of the District Munsiff Cum Judicial Magistrate, Eraniel in Crime No.612 of 2015 on the file of the first respondent police and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.side) appearing for the first respondent and the learned counsel appearing for the second respondent.

3.On the basis of a complaint lodged by the second respondent a case was registered against the petitioners in Crime No.612 of 2015



on the file of the first respondent.

4. After filing charge sheet, the case was taken on file in P.R.C.No.44 of 2016 for the offence under Sections 341, 294(b) and 307 of I.P.C. The learned counsel for the petitioners/accused No.1 and 2 submitted that the injuries sustained by the de-facto complainant is simple in nature. He also relied upon the Medical certificate issued and the statement of the Doctor, who gave treatment to the victim. He also relied upon the wound (medical treatment) certificate, when the charge sheet itself refer to the injury as simple, it was contented by the learned counsel for the petitioner that Section 307 of I.P.C., is not attracted and that therefore the charge sheet is liable to be quashed. The fact that the victim has suffered several cut injuries is not disputed. The wound certificate also confirmed that the cut injuries are not simple. The doctor has given a certificate that there are atleast 5 sutured wounds.

5. Having regard to the fact that there are several injuries and major injuries are on the left and right side of forehead, this Court is not in a position to come to the conclusion that Section 307 is not attracted. Even with regard to wrongful confinement, the original complaint given by the de-facto complainant and the statement obtained from the victim and other persons indicate that there is a prima facie case. In these circumstances, this Court is not in a position to accept the contentions of the learned counsel for the petitioner, which are factual to be decided on the basis of evidence. Hence, the Criminal Original petition is liable to be dismissed and hence dismissed.

6. However, the learned counsel for the petitioner seeks indulgence of this Court to dispense with the presence of the petitioner. Considering the nature of the dispute, this court is inclined to entertain the request and as a result the presence of the petitioner is dispensed with, unless and until the presence of the petitioner is specifically required by the order of the Court. The lower Court is directed to complete the trial and dispose of the proceedings within a period of six months from the date of receipt of a copy of this order.

7. Hence, this Criminal Original Petition is dismissed with the above direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The District Munsiff Cum Judicial Magistrate,
Eraniel

2. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

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

+ 1 CC TO Mr.E.V.N.SIVA, ADVOCATE IN SR No. 75487

CP/TA

TE/MR-KKR/SAR-IV : 19/09/2017 : 3P/5C

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