

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 13.03.2017

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CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH**Crl.O.P. (MD) No.2675 of 2017****and****Crl.M.P. (MD) Nos.2055 and 2056 of 2017**

1.Sambath
2.Manoharan
3.Alagarsamy
4.Ravichandran

: Petitioners/Accused 1 to 4

Vs.

1.The State Through,
The Inspector of Police,
Karaikudi South Police Station,
Karaikudi, Sivagangai District.

: Respondent No.1/Complainant

2.Senthilkumar

: Respondent No.2/De-facto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records connected with the case in C.C.No.268 of 2014 on the file of the Learned Judicial Magistrate, Karaikudi and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

For Respondent No.1: Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

O R D E R

On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.408 of 2014 on 01.10.2014 and after completing the investigation, has filed a final report in C.C.No.268 of 2014 before the learned Judicial Magistrate, Karaikudi, for offences under Sections 294(b), 323, 447 and 506 (ii) of the Indian Penal Code, challenging which, the petitioners/accused Nos.1 to 4 are before this Court.



(Criminal Side). Today, Mr.A.Singarayar, Special Sub-Inspector of Police, Karaikudi South Police Station, is present.

3. The learned counsel for the petitioners submitted that the incident never occurred and this is a false case.

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4. On a reading of the final report, it is seen that the petitioners herein had illegally trespassed into the land of the defacto complainant even during the pendency of the civil dispute between the parties and had abused the defacto complainant and attacked his grandmother Valliyammal. The police statement of Valliyammal clearly states that the petitioners abused the defacto complainant and when she questioned, they pushed her and tried to throttle her. Since there are prima facie materials against the petitioners, this is not a fit case to quash the prosecution.

5. In the result, this petition is devoid of merits and accordingly, the same is dismissed. However, the presence of Manoharan (A-2) and Alagarsamy (A-3) before the Trial Court alone is dispensed with, on condition that they shall appear before the Trial Court for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if they file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If they adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Karaikudi.

2.The Inspector of Police,
Karaikudi South Police Station,
Karaikudi, Sivagangai District.

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

+1cc to M/s.R.ALAGUMANI Advocate in SR. No.14575

SML/MR

JS/MR/21.03.2017/2P-5C

<https://hcservices.ecourts.gov.in/hcservices/>

Order made in
CrI.O.P.(MD)No.2675 of 2017
13.03.2017