



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.3227 of 2017

and

Crl.M.P. (MD)Nos.2453 and 2454 of 2017

1. Mani
2. Irulayee
3. Marimuthu
4. Muthulakshmi
5. Baskaran
6. Kannadasan
7. Pandiammal
8. Pounthai

: Petitioners/Accused No.1 to 8

Vs.

1. State Rep. by its
The Sub-Inspector of Police,
Varusanadu Police Station,
Theni District.
(Crime No.16 of 2016).

: 1st Respondent/complainant

2. Selvam

: 2nd Respondent/De-facto
complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.168 of 2016 on the file of the learned District Munsif -cum- Judicial Magistrate, Aundipatti, Theni District and quash the same.

For Petitioners : Mr.A.Uthayakumar

For Respondent No.1 : Mr.K.Anbarasan,

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.16 of 2016 and after completing the investigation, has filed a final report in C.C.No.168 of 2016 before the learned District Munsif -cum- Judicial Magistrate, Aundipatti, Theni District, for offences under Sections 147, 148, 323, 324, 355 and 506(ii) of the Indian Penal Code r/w Section 34 of the Indian Penal Code against the



petitioners herein, challenging which, the petitioners are before this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal side) appearing for the first respondent.

3. It is the case of the *defacto* complainant that there were differences of opinion between the family of the *defacto* complainant and the family of the accused in connection with the marriage of Pandiammal and consequently, it is alleged by the *defacto* complainant that on 19.01.2016, at 06.00 p.m., all the accused picked up a quarrel with him and started assaulting him.

4. The learned counsel for the accused submitted that it was the *defacto* complainant who caused provocation leading to the assault. He also submitted that the *defacto* complainant had lodged a false complaint against the petitioners.

5. The learned Government Advocate (Criminal side) refuted the said contention.

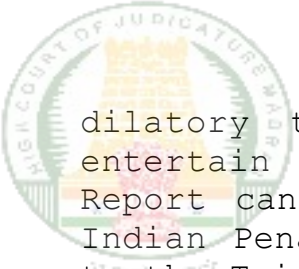
6. This Court gave its anxious consideration to the rival submissions.

7. On a reading of the charge sheet and also the statement of the witnesses recorded under Section 161 of the Code of Criminal Procedure, it is seen that the overt act of each of the accused is clearly stated. That apart, the police have also examined Dr.Velmani, Assistant Medical Officer, Government Medical College Hospital, Theni, who had treated the injured in the fight.

8. In view of the overwhelming materials against the petitioners, this Court is of the view that this is not a fit case to quash the prosecution. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

9. At this juncture, the learned counsel appearing for the petitioners submitted that the presence of women accused, viz., petitioner Nos.2,4,7 and 8 herein before the Trial Court may be dispensed with.

10. Accepting the submission, this Court directs the petitioner Nos.2,4,7 and 8 herein to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, 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., they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses on the day they are examined in chief, in their absence without adopting



dilatory tactics, the Trial Court may liberally consider and entertain the same. If they abscond, a fresh First Information Report can be registered against them under Section 229-A of the Indian Penal Code. If they adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence.

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Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Munsif -cum- Judicial Magistrate,
Aundipatti, Theni District.
2. The Sub-Inspector of Police,
Varusanadu Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SML
VB/JC/06.04.2017/3P/4C

Order made in
Cr1.O.P. (MD) No. 3227 of 2017
Dated: **23.03.2017**