



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.4244 of 2017

and

Crl.M.P. (MD) Nos.3066 and 3067 of 2017

R.Ramesh

: Petitioner

-Vs-

1.State rep. by,
The Inspector of Police,
Allinagaram Police Station,
Theni District.

2.Sivakumar

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records in charge sheet in C.C.No.536 of 2013 on the file of the learned Judicial Magistrate, Theni and quash the same.

For Petitioner

: Mr.D.Christenson Jugunu

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.59 of 2012 and after completing the investigation, has filed a charge sheet in C.C.No.536 of 2013 before the learned Judicial Magistrate, Theni, for offences under Sections 147, 148, 448, 427, 294(b), 323, 324 and 506(ii) of the Indian Penal Code against five accused, challenging which, Accused No.1 is before this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) appearing for the first respondent. Mr.Senthil Raj, Special Sub-Inspector of Police, Allinagaram Police Station, Theni District, is present in Court today.

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

3. On a reading of the charge sheet, it is seen that on 20.02.2012 around 21.30 hours, when the defacto complainant and



his friends were sitting in the land belonging to the *defacto* complainant and were discussing and planning for the celebration of Sivarathiri festival, the accused Nos.1 to 5 including the petitioner herein came armed with sticks and rods and started attacking the *defacto* complainant. The overt act against the petitioner is that he had attacked the *defacto* complainant on the leg with stick.

4. The learned counsel for the petitioner submitted that on the date of occurrence, viz., 20.02.2012, the petitioner was nowhere in the place of occurrence and that on account of previous motive, the *defacto* complainant has foisted the present case.

5. In the considered opinion of this Court, *alibi* is a question of fact, which has to be established only before the Trial Court and the same cannot be appreciated in a proceedings under Section 482 of the Code of Criminal Procedure. Since there are *prima facie* materials against the petitioner in the charge sheet, inasmuch as the *defacto* complainant himself is the injured witness, who has been treated by Dr.Durga Devi (L.W.7) for injuries, it cannot be stated that there are no materials against the petitioner.

6. In the result, this Criminal Original Petition is devoid of merits and accordingly, the same is dismissed with liberty to the petitioner to raise all the points before the Trial Court. The Trial Court is directed to complete the trial, within a period of eight months from the date of receipt of a copy of this order, provided there is no other legal impediment. The accused shall cross-examine the witnesses on the day they are examined in chief, as directed by the Supreme Court in **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**. If the accused adopt any dilatory tactics, they shall be remanded to custody, in view of the law laid down by the Supreme Court in **State of U.P. vs. Shambhu Nath Singh** reported in **2001(4) SCC 667**. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CSI)

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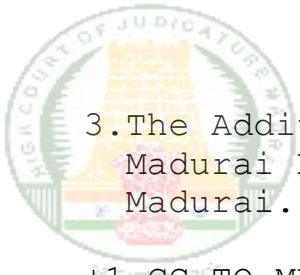
Sub-Assistant Registrar

To

1.The Judicial Magistrate,
Theni.

2.The Inspector of Police,
Allinagaram Police Station,

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



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

+1 CC TO MR.D.CHRISTENSONJUGUNU,ADVOCATE,SR NO.51626

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MAS/KP/SAR3:20.04.2017:3P-5C

Order made in
CRL.O.P.(MD)No.4244 of 2017
Dated: 11.04.2017