



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.4747 of 2017

and

Crl.M.P (MD) Nos.3350 and 3351 of 2017

1.Rajamani

2.Emmanuel Rajan @ Imanuvel

: Petitioners/Accused No.6&7

Vs.

1. The State Represented by
the Inspector of Police,
Elumalai Police Station,
Madurai District.

(Crime No.127/2016)

: 1st Respondent/Complainant

2. Chellappan

: 2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for records relating to the charge sheet in C.C.No.15 of 2017 on the file of Judicial Magistrate Court No. II, Usilampatti and quash the same as illegal in so far as the petitioners are concerned.

For Petitioners : Mr.R.Gandhi

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.127 of 2016 and after completing the investigation, has filed a charge sheet in C.C.No.15 of 2017 before the learned Judicial Magistrate No.II, Usilampatti, for offences under Sections 147,148,294(b),324 and 506(1) of the Indian Penal Code against eight accused, challenging which, Accused Nos.6 and 7 are before this Court.



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

3. Mr.R.Gandhi, learned counsel appearing for the petitioners submitted that there was a previous enmity between the defacto complainant and the family of Accused No.1 in respect of passing of electricity board lines through the property of the defacto complainant. In other words, the defacto complainant has been objecting to the passing of electricity line through his property to the property of Accused No.1 Therefore, on account of previous enmity, a false case has been foisted against the petitioners by the defacto complainant..

4. Per contra, the learned Government Advocate (Criminal side) refuted the contention.

5. On a reading of the 161(3) Cr.P.C., statement of the defacto complainant, it is seen that he has specifically named the petitioners herein and has also stated that they attacked him with stones and sticks, on account of which, he suffered injuries. Thus, when there are *prima facie* materials for the trial to proceed, this is not a fit case to quash the prosecution. Hence, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all the points before the Trial Court. However, taking into consideration the fact that the first petitioner is a lady and the second petitioner is 19 year old boy, this Court directs the petitioners/Accused Nos.6 and 7 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 the petitioners/Accused Nos.6 and 7 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 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 the petitioners 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 No. II,
Usilampatti.

2. The Inspector of Police,
Elumalai Police Station,
Madurai District.

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

+ 1 CC TO Mr.R.GANDHI, ADVOCATE IN SR No. 53254

SML

TE/MMS : 05/05/2017 : 3P/5C

Order made in
Crl.O.P.(MD)No.4747 of 2017 and
Crl.M.P(MD)Nos.3350 and 3351 of 2017
20.04.2017