



WEB COPY

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. 4748 of 2017

and

Crl.MP (MD) Nos. 3352 and 3353 of 2017

Gopalakrishnan : Petitioner/Accused No.1
Vs.

1. The State Represented by
the Inspector of Police,
Thillai Nagar Police Station,
Trichy City.
(In Crime No. 647/2015) : 1st Respondent/Complainant

2. Ondimuthu : 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 of C.C.No.4 of 2017 on the file of the Learned Judicial Magistrate No.IV, Trichirappalli and quash the same.

For Petitioner : Mr.P.Arun Jayatram
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.647 of 2015 and after completing the investigation, has filed a charge sheet in C.C.No.4 of 2017 before the learned Judicial Magistrate No.IV, Trichirappalli, for offences under Sections 294(b), 323 and 506(i) of the Indian Penal Code against Gopalakrishnan and two others, challenging which, Gopalakrishnan is before this Court.

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

3. It is the case of Gopalakrishnan that Ondimuthu, the defacto complainant, is none other than the father-in-law of Gopalakrishnan's younger brother Panchavarnam. On account of certain civil disputes between Panchavarnam and Gopalakrishnan, Panchavarnam has set up his father-in-law to give a false complaint. The learned counsel also contended that Gopalakrishnan is working in Railways and on the date of incident, he was not present in the place of occurrence.



4. Per contra, the learned Government Advocate (Criminal side) took this Court through 161(3) Cr.P.C., statement of Muruganandam, the son of the *defacto* complainant, who has very categorically stated that this petitioner and his two sons attacked them and on account of which, Ondimuthu suffered injuries. Thus, when there are *prima facie* materials in the charge sheet and in the accompanying statements of witnesses against the petitioner, the prosecution cannot be quashed.

5. In the result, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court.

6. Taking into consideration the age of the petitioner, this Court directs the petitioner/Accused No.1 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 petitioner/Accused No.1 files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined in chief, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.IV,
Trichirappalli.

2.The Inspector of Police,
Thillai Nagar Police Station,
Trichy City.

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

+1cc to M/s. P.ARUN JAYATRAM Advocate in SR. No.53367
JS/SV.MMS/SAR.4/9.05.2017/2P-5C

Order made in
Cr1.O.P. (MD) No.4748 of 2017
20.04.2017