



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.4755 of 2017

and

Crl.M.P.(MD)Nos.3284 and 3358 of 2017

1.Sarguru
2.Saraswathi @ Pappathi
3.Murugeshwari : Petitioners

Vs.

1.State Represented by
the Inspector of Police,
Palanichettypatti Police Station,
Theni District.
(In Crime No.355/2014)
2.Mrs.Suganthi : Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the Charge Sheet in C.C.No.100 of 2015 on the file of the learned Judicial Magistrate, Theni and quash the same.

For Petitioners : Mr.S.M.A.Jinnah
For Respondent No.1 : Mr.K.Anbarasan
Government Advocate (Crl.side)

O R D E R

On the complaint of Suganthi, the first respondent police registered a case in Crime No.355 of 2014 and after completing the investigation, has filed a charge sheet in C.C.No.100 of 2015 before the learned Judicial Magistrate, Theni, for offences under Sections 147, 294(b), 355, 452, 324, 427 and 506(i) of the Indian Penal Code against the petitioners herein, challenging which, the petitioners have filed the present quash application.

2. Similarly, on the complaint lodged by Sarguru (the first petitioner in this case), the respondent police has registered a case in Crime No.356 of 2014 on 08.06.2014 and after completing the investigation, has filed a charge sheet in C.C.No.45 of 2015 against Suganthi and others for offences under Sections 294(b), 355, 324, 506(11) and 109 of the Indian Penal Code.



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

4. Mr.S.M.A.Jinnah, learned counsel appearing for the petitioners submitted that the first petitioner is 78 years old and the second petitioner is 70 years old and that they were serious injured in the attack by Suganthi, but, whereas, the police have made the petitioners as accused in C.C.No.100 of 2015. Mr.S.M.A.Jinnah, learned counsel also submitted the medical records, which show that Sarguru and Saraswathi @ Pappathi had suffered serious injuries. However, it is also seen that Suganthi had also suffered some injuries though simple in nature. Thus, when there is a case and counter case, it will not be appropriate for this Court to stay one trial, because the Presiding Officer will be at a loss to understand who is the actual aggressor and who is the actual victim.

5. It is also seen that two septuagenarians are involved in Crime No.355 of 2014 and a separate charge sheet has been filed against them before the competent Court.

6. In the result, this Criminal Original Petition is closed with liberty to the petitioners to raise all the points before the Trial Court. However, taking into consideration the age of the first and second petitioners, this Court directs them 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., 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.

7. At this juncture, it is represented that no summons have been issued by the Trial Court in C.C.No.45 of 2015.

8. In this regard, the learned Government Advocate (Criminal side), on instructions from Mr.A.Saravanakumar, Sub-Inspector of Police, Palanichettypatti Police Station, Theni District, who is present in Court today, submitted that the husband of A-1 (Suganthi) in C.C.No.45 of 2015 is working in Army and, therefore, she is not available here and has gone with her husband to some place in North India.

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

9. In view of the above, the first respondent police is directed to ensure that summons are served on Accused No.1 in



C.C.No.45 of 2015. The Trial Court is directed to complete both the trials, within a period of six months from the date of the first appearance of Suganthi (Accused No.1 before the Trial Court in C.C.No.45 of 2015).

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Sd/-

Assistant Registrar(CS-II)

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Theni.
- 2.The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SML

JS/SV.MMS/2P-4C/5.05.2017

Order made in
Cr1.O.P. (MD) No.4755 of 2017
Dated: 20.04.2017