



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.6946 of 2017

and

Crl.M.P. (MD) Nos.4690 and 4691 of 2017

1. Meeran Mytheen

2. Jahir Hussain

: Petitioners/Accused Nos.1 and 2

-Vs-

1. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
(Crime No.1189 of 2014).

2. Sheik Syed Ali

: Respondents/Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records and quash the proceeding of the charge sheet in C.C.No.217 of 2016, dated 14.01.2015 on the file of the learned Judicial Magistrate No.2, Nagercoil.

For Petitioners : Mr.R.Maheswaran

For Respondent No.1 : Mr.K.Anbarasan,
Government Advocate (Crl.side)

O R D E R

The petitioners have come up with the present petition seeking quashment of the proceedings in C.C.No.217 of 2016, on the file of the learned Judicial Magistrate No.2, Nagercoil.

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

3. On a reading of the charge sheet, it is seen that the *defacto* complainant had suffered some injuries as could be seen from the Wound Certificate and, therefore, Section 323 of the Indian Penal Code has been included. In view of the fact that there are *prima facie* materials against the petitioners, this is not a fit case to quash the prosecution. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.



4. At this juncture, the learned counsel appearing for the petitioners sought permission for dispensing with the personal appearance of the petitioners.

5. It is seen that the first accused-Meeran Mytheen is 56 years old and he is a heart patient. Therefore, taking into consideration his age, his personal appearance before the Trial Court is dispensed with on condition that he shall 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 he 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 in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. The Trial Court is further directed to complete the trial, within a period of six months from the date of receipt of a copy of this order, provided the accused engage a lawyer and co-operate with the Trial Court by cross-examining the prosecution witnesses on the day they are examined in chief. Consequently the connected CrI.M.P.(MD)Nos.4690 and 4691 of 2017 are closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.2,
Nagercoil.
2. The Inspector of Police,
Vadaseri Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.MAHESHWARAN, ADVOCATE IN SR No. 59688

SML

TE/MR/SAR-II : 20/06/2017 : 2P/5C