



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 7181 of 2017

and

Crl.M.P. (MD) Nos. 4870 and 4871 of 2017

WEB COPY

Palanivelamsamy : Petitioners/Accused

-Vs-

1. The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District. : 1st Respondent/Complainant

2. Abdul Salim : 2nd Respondent/Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records relating to C.C.No.19 of 2015 on the file of the learned Judicial Magistrate, Senkottai, dated 09.07.2014 and quash the same as illegal.

For Petitioner : Mr.G.Thiruvartselvan

For Respondents : Mr.K.Anbarasan
Government Advocate (Crl.Side)
for R.1

O R D E R

On the complaint lodged by Abdul Salim, the respondent police registered a case in Cr.No.55 of 2014 and after completing the investigation, they had filed charge sheet in C.C.No.19 of 2015 before the learned Judicial Magistrate, Senkottai for the offences under Sections 294(b), 323, 506(ii) I.P.C., challenging which the accused is before this Court.

2. Heard the learned Counsel appearing for the petitioner/accused and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3. The learned Counsel for the accused submitted that the petitioner is aged about 80 years and even according to the averments in the F.I.R., there is no case made out for the offences under Section 506(ii) I.P.C., and only in the statement recorded under Section 161 Cr.P.C., there has been improvement in the case of prosecution and therefore, the prosecution should be quashed.



4. Per contra, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the defacto complainant was admitted in the hospital and on intimation from the hospital, the police went to the hospital and obtained a statement from the defacto complainant, based on which, the FIR in this case has been registered.

5. A copy of the accident register shows that the defacto complainant suffered internal injuries and admitted in the hospital. The statement of the Doctor has also been recorded. Under such circumstances, when there are *prima facie* materials, this is not a fit case to quash the prosecution.

6. The learned Counsel appearing for the petitioner submitted that on the complaint given by the petitioner, a counter case was registered in Cr.No.56 of 2014 against the defacto complainant, in which the defacto complainant pleaded guilty before the Lok Adalat and settled the matter.

7. Thus when there is a case and counter case and also *prima facie* materials in this case, the prosecution cannot be quashed. Hence, this Criminal Original Petition is dismissed. Consequently the connected Miscellaneous Petitions are also dismissed.

8. The presence of the petitioner is dispensed with and the petitioner is directed 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 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 the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence.

9. The trial Court is also directed to dispose of the trial in C.C.No.19 of 2015 within a period of six months from the date of receipt of a copy of this order, provided the accused co-operates for the trial. The trial Court shall proceed with the trial without in any manner influenced by what is stated above.

Sd/-

Assistant Registrar(Records)

/True Copy/



To

1.The Judicial Magistrate, Senkottai,

2.The Inspector of Police,
Puliyarai Police Station,
Tirunelveli District.

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

+1cc to Mr.G.Thiruvarutselvan, Advocate in SR.No.60145

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AE/JC/SAR1/21.06.2017/3P/5C

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