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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

CRL.O.P.(MD)No.7274 of 2017

and

Crl.M.P.(MD)Nos.4948 and 4949 of 2017

- 1.Mathirasu
- 2.Samuthirakani
- 3.Subbammal

: Petitioners/Accused 1 to 3

-Vs-

The State represented by

1. The Sub Inspector of Police,
Kuruvikulam Police Station,
Sankarankoil Taluk,
Tirunelveli District.
(Crime No.241/2014)

: 1st Respondent/Complainant

2. Packiyathai

: 2nd Respondent/Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records as made in C.C.No.81 of 2015 on the file of the learned Judicial Magistrate, Sankarankoil, Tirunelveli District in relation to Crime No.241 of 2014 on the file of the Sub Inspector of Police, Kuruvikulam Police Station, Tirunelveli District and quash the same.

For Petitioners : Mr.S.Palani Velayutham

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

O R D E R

On the complaint lodged by Packiyathai, the respondent police registered a case in Cr.No. 241 of 2014 against Mathirasu(A1), Samuthirakani(A2), Subbammal(A3) and after completing the investigation, have filed charge sheet in C.C.No.81 of 2015 before the learned Judicial Magistrate, Sankarankoil.

2. On the complaint of Subbammal, the respondent police registered a case in Cr.No.277 of 2014 for the offences under Sections 323,506(ii) I.P.C., and Section 4 of Tamil Nadu



Prohibition Harassment of Women Act against Packiyathai and others and after completing the investigation, have filed charge sheet in C.C.No.82 of 2014 before the learned Judicial Magistrate, Sankarankoil. This quash petition has been filed by Mathirasu and two others for quashing the prosecution in C.C.No.81 of 2015.

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3. Heard the learned Counsel appearing for the petitioners and the learned Government Advocate(Crl.Side) appearing for the first respondent.

4. On a reading of the Charge Sheet in C.C.No.81 of 2015, there are prima facie materials inasmuch as it is alleged by Packiyathai that she was attacked by three accused. However, Packiyathai is said to be an accused in C.C.No.82 of 2015. Thus, there appears to be a case and counter and therefore both the cases should be tried simultaneously and not clubbed.

5. In view of the above, this Criminal Original petition is dismissed with a direction to the trial Court to expeditiously complete the trial in C.C.No.81 of 2015 and C.C.No.82 of 2015 if there is no other legal impediment and complete the same within a period of six months from the date of receipt of a copy of this order provided the accused co-operate by cross-examining the witnesses on the date they are examining in chief.

6. The presence of Samuthirakani and Subbammal before the trial Court is dispensed with and they are 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 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 Samuthirakani and Subbammal adopt any dilatory tactics, it is open to the trial Court to insist upon their presence. Accordingly, Crl.M.P.(MD)No.4949 of 2017 is disposed of and Crl.M.P.(MD)No.4948 of 2017 is dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1. The Sub Inspector of Police,
Kuruvikulam Police Station,
Sankarankoil Taluk,
Tirunelveli District.
2. The Judicial Magistrate Court,
Sankarankoil, Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.S.Palani Velayutham, Advocate SR.No. 60368

CRL.O.P. (MD) No.7274 of 2017
15.06.2017

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JM/RSK/SAR 1/19.06.2017/3P/5C