



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.7710 of 2017

and

CRL.M.P (MD) Nos.5266 and 5267 of 2017

1.Rajendran
2.Saraswathy

: Petitioners/Accused 2 and 3

-Vs-

1. The State of Tamil Nadu represented by
The Inspector of Police,
Thukkalay Police Station,
Kanyakumari District. : Respondent/Defacto Complainant

2.Lalitha : Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the charge sheet in C.C.No.64 of 2017 on the file of the Judicial Magistrate, Padmanabhapuram and quash the same in so far as petitioners concerned.

For Petitioner : Mr.A.Rajkumar Sen

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

O R D E R

On the complaint lodged by Lalitha, the respondent police have registered a case in Cr.No.673 of 2014 on 05.09.2014 and after completing the investigation, the police have filed charge sheet in C.C.No.64 of 2017 before the learned Judicial Magistrate, Padmanabhapuram for the offences under Section 323 I.P.C. and Section 4 of Tamil Nadu Women Harassment Act 2002 against the petitioners, challenging which, Accused Nos.2 and 3 are before this Court for quashing the prosecution.

2. Heard the learned Counsel appearing for the petitioners and



the learned Government Advocate (Crl.Side) appearing for the first respondent.

3. On a reading of the charge sheet, it is alleged that on 02.09.2014 at about 08.15 p.m., Accused Nos.1 to 3 had picked up a quarrel with the defacto complainant and assaulted her in a public place. The defacto complainant was admitted in the hospital as an inpatient from 02.09.2014 to 07.09.2014, hence the charge sheet.

4. The learned Counsel appearing for the petitioners submitted that there are discrepancies in the accident registrer and the statement of the defacto complainant. Inasmuch as in the accident registrer, only one injury has been noted, but whereas the defacto complainant had stated that three persons attacked her.

5. In the considered opinion of this Court, these discrepancies cannot be a reason for quashing the prosecution at the threshold. Since there are *prima facie* materials against the petitioners, this is not a fit case for quashing the prosecution.

6. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed.

7. The learned Counsel for the petitioners prayed that the presence of the petitioners before the trial Court may be dispensed with.

8. In the opinion of this Court, since Saraswathy is aged about 62 years and is a lady, her presence can be dispensed with and she 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 she files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and that her counsel will cross-examine the prosecution witnesses in her absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the second petitioner/Saraswathy adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



1. The Judicial Magistrate,
Padmanabhapuram.
2. The Inspector of Police,
Thukkalay Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

SSL

TE/JC/SAR-I : 04/07/2017 : 3P/4C

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