

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.8663 of 2017
and
Crl.MP.Nos.6180 & 6181 of 2017

1.V.Annadurai
2.J.Kanthamani
3.C.Vasuthevan ... Petitioners/Accused

Vs

1.The State
Rep. by its Inspector of Police
Kandatchipuram Police Station
Kandatchipuram
Villupuram District.
2.Elumalai Respondents/Complainant &
Defacto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records pertaining to final report dated
11.01.2017 made in C.C.No.14 of 2017 on the file of the Judicial
Magistrate Court, Thirukovilur and quash the same.

For Petitioners : Mr.Ramamoorthy
Senior Counsel
for Mr.S.Thirumavalavan
For R1 : Mrs.Kritka Kamal.P
Government Advocate (Crl.Side)

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O R D E R

This Criminal Original Petition has been filed seeking to
call for the records pertaining to the final report dated
11.01.2017 made in C.C.No.14 of 2017 on the file of the Judicial
Magistrate Court, Thirukovilur and quash the same.

2. On the complaint lodged by one Elumalai, the first respondent police registered a case in Crime No.249 of 2016 and after completing the investigation, has filed the charge sheet in C.C.No.14 of 2017 before the Judicial Magistrate Court, Thirukovilur, for the offences under Sections 294(b), 323, 324 and 506(ii) IPC against the accused / petitioners herein. Similarly, on the complaint lodged by Vasuthevan (A3 in C.C.No.14 of 2017), the respondent police registered a counter case in Crime No.242 of 2016 and after completing the investigation, has filed the charge sheet in C.C.No.94 of 2017 before the Judicial Magistrate, Thirukovilur for the offences under Sections 294(b), 323, 324 and 506(i) IPC against Elumalai and three others. It may be relevant to state that Elumalai (A1 in C.C.No.94 of 2017) is the de facto complainant in C.C.No.14 of 2017. Thus, while so, the petitioners, who are accused in C.C.No.14 of 2017 have filed the present quash petition.

3. Heard Mr.Ramamoorthy, learned Senior Counsel appearing for the petitioners and Mrs.Kritika Kamal P, learned Government Advocate (Crl.Side) for the first respondent.

4. The learned counsel for the petitioners submitted that the incident would not have taken place as projected by the prosecution inasmuch as the petitioners have suffered injuries at the hands of Elumalai and his family members. That apart, Elumalai and his family members attempted to grab the property of the petitioners, by resorting to violence.

5. Per contra, the learned Government Advocate submitted that there is a case and counter and hence, the matter should be left with the trial Court to decide, as to which of them is true.

6. On a reading of the charge sheet in C.C.No.14 of 2017, it is seen that the de facto complainant has alleged assault and therefore, the offence under Section 324 IPC has been included. That apart, one Dr.Kamalasekaran, who had examined the de facto complainant and issued a wound certificate, has been listed as a witness in the memo of evidence. Since disputed questions of fact cannot be gone into in a quash petition, this petition is closed, with liberty to the petitioners to raise all the points before the trial Court. However, the trial Court is directed to conduct the trial in C.C.Nos.14 of 2017 and 94 of 2017 simultaneously (not jointly) and strictly in accordance with law laid down by the Supreme Court in Nathi Lal Vs. State of Uttar

Pradesh [(1990) SCC (crl) 638] and pass final judgment in accordance with law. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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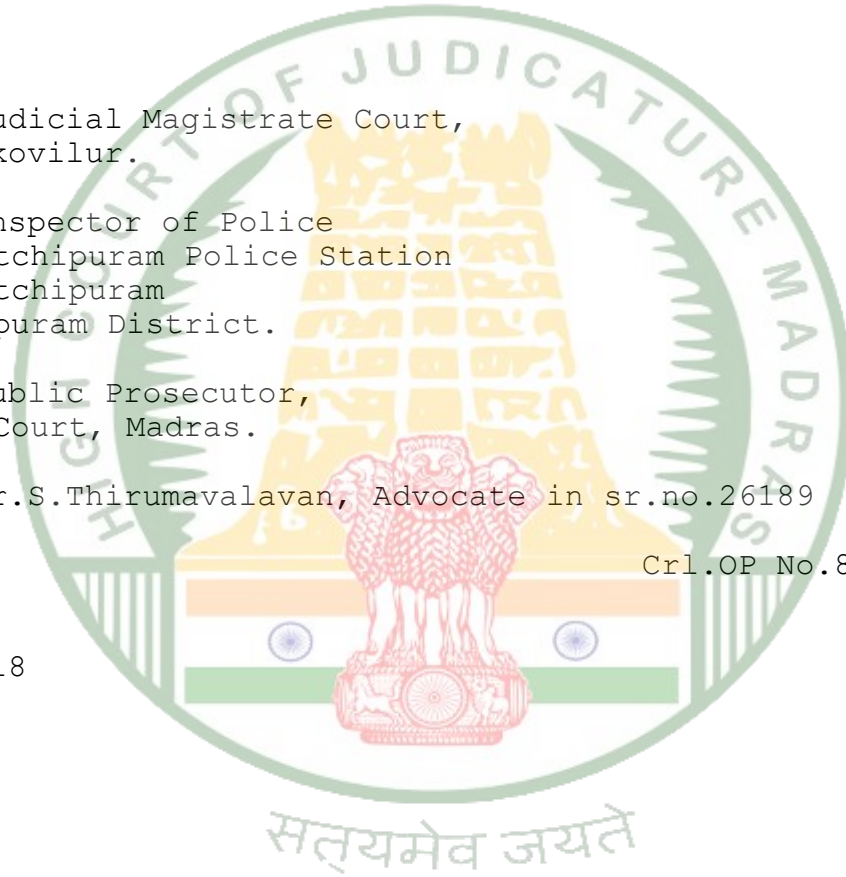
To

1. The Judicial Magistrate Court,
Thirukovilur.
2. The Inspector of Police
Kandatchipuram Police Station
Kandatchipuram
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Thirumavalavan, Advocate in sr.no.26189 (04/06/18)

Crl.OP No.8663 of 2017

SVN(CO)
CS/26/04/18



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