

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2018

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.28949 of 2014  
and  
Crl.M.P.Nos. 1 & 2 of 2014

M.Senthil

... Petitioner

Vs.

P.Kannan

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in S.T.C.No.137 of 2017 on the file of the District Munsif-cum-Judicial Magistrate, Omalur and quash the same as regards this petitioner.

For petitioner : Mr.T.Balaji

For Respondent : Ms.Rukmani Venugobalan  
for M/s.S.Ravee Kumar

O R D E R

This petition has been filed by the third accused for quashing the proceedings against him in STC.No.137 of 2014, on the file of the District Munsif-cum-Judicial Magistrate, Omalur.

2. The learned counsel for the petitioner has submitted that in the first complaint, which was sent by the respondent herein to the Superintendent of Police, Salem dated 07.12.2013, the petitioner's overtact has not been specifically stated. Further in the said complaint, the presence of the respondent and his father Ponnusamy, also not mentioned, but in the complaint, which was filed before the Court, the respondent herein has stated that the petitioner herein has assaulted the respondent's father namely Ponnusamy with stick. He further submitted that no wound certificate has been produced with regard to the injury that has been caused to the said Ponnusamy. He further submitted that after lodging complaint before the Police, the matter has been settled between the parties and suppressing the said fact, the respondent has filed a false private complaint before the Court and the same has to be quashed.

3. Per contra, the learned counsel for the respondent has submitted that in the first complaint, which was sent to the Superintendent of Police dated 07.12.2013, it is specifically

stated that all the three accused persons were present at the time of occurrence and they have assaulted the petitioner and his brother Balasubramanian. She further submitted that though in the first complaint the fact that with regard to the injury caused to the respondent's father has not been mentioned, in the complaint filed before the Court, the respondent herein has elaborately narrated the facts and if there is any contradiction in the statement made in the first complaint filed before the Superintendent of Police, that is the matter for appreciation of evidence before the trial Court and this Court cannot decide the questions of disputed facts in the petition filed under Section 482 Cr.P.C.

4. It is seen from the typed-set of papers filed by the petitioner that the parties have stated before the police that they will workout their remedy before the Court. Therefore, the petitioner cannot rely upon the said settlement.

5. A perusal of the copy of the complaint dated 07.12.2013 shows that the respondent herein has stated that the petitioner herein and his father S.Muthu and his brother M.Sundar, also present and they have assaulted the respondent and his brother Balasubramanian with stone and stick and caused injury to the respondent's brother Balasubramanian. In the wound certificate, which was issued to the said Balasubramanian, it is stated that he was assaulted by three persons. In the complaint filed before the Court, the respondent herein has specifically stated that the petitioner herein has assaulted the respondent's father namely Ponnusamy with stick. Why the respondent has not stated the aforesaid fact in the first complaint has to be appreciated by the trial Court after recording evidence. At this stage, the contradictions cannot be taken into consideration for quashing the proceedings.

6. For the aforesaid reasons, this Court is of the view that prima facie materials are available to proceed against the petitioner herein. Therefore, the proceedings against the petitioner herein in STC.No137 of 2014 cannot be quashed.

7. In the result, the criminal original petition is dismissed. It is open to the petitioner to contest the case before the Trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

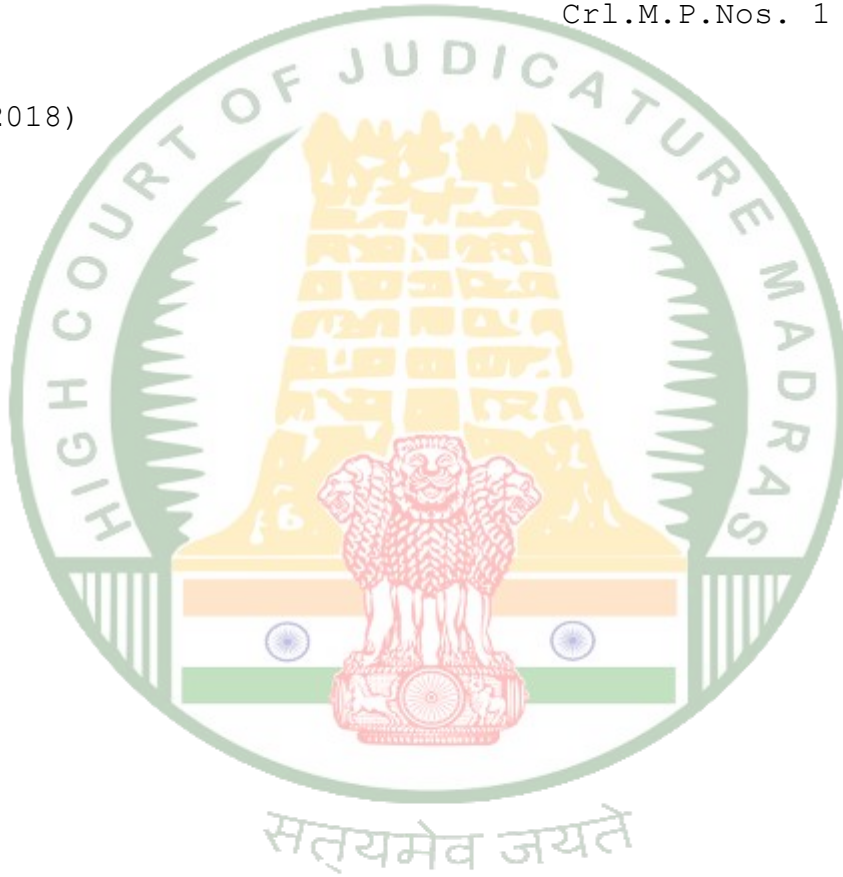
1.The District Munsif-cum-Judicial Magistrate,  
Omalur.

+1cc to Mr.A.Thilagarajan, Advocate, S.R.No. 58312

+1cc to Mr.S.Ravee Kumar, Advocate, S.R.No. 58224

Crl.O.P.No.28949 of 2014  
and  
Crl.M.P.Nos. 1 & 2 of 2014

GN(26/10/2018)



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