

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.12559 of 2018

and

Crl.MP.No.6734 of 2018

1.P.Muthukumaran

2.Ponnusamy

3.Prabhavathi

.... Petitioners

Vs.

The Inspector of Police
B4 Sewapet Police Station
Thiruvallur District.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records pertaining to final report in FR.No.259 of 2017 (Crime No.355/2016) dated 29.05.2017 pending on the file of the Judicial Magistrate No.II, Thiruvallur and quash the same.

For Petitioners : Mr.M.Prabakar

For Respondent : Mrs.Kritika Kamal.P.
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to final report in FR.No.259 of 2017 (Crime No.355/2016) dated 29.05.2017 pending on the file of the Judicial Magistrate Court No.II, Thiruvallur and quash the same.

2. It is the case of one Deepa that Prabavathi (A3) had a quarrel with Deepa, since Deepa had lodged a complaint before the police against Prabavathi (A3) alleging that she had not repaid the chit amount. Prabavathi (A3) questioned Deepa on 11.10.2016 around 18.30 hours and a quarrel ensued. During quarrel, Muthukumaran P (A1) and Ponnusamy (A2) joined Prabavathi (A3) and attacked Deepa, resulting in Deepa sustaining injuries. Hence, the FIR.

3. On the complaint lodged by Deepa, the respondent police have registered a case in Crime No.355 of 2016 on 14.10.2016 under Section 294 (b), 323 and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002 against Muthukumaran P (A1) Ponnusamy (A2) and Prabavathi (A3). After completing the investigation, the police have filed a charge sheet in FR.No.259 of 2017 before the Judicial Magistrate Court No.II, Tiruvallur against the three accused for the above said offences, challenging which, this quash petition has been filed by the accused/petitioners.

4. Heard Mr.M.Prabakar, learned counsel for the accused/petitioners and Mrs.Kritika Kamal.P, learned Government Advocate (Crl. Side) for the respondent.

5. Mr.M.Prabakar, learned counsel for the accused submitted that Prabavathi (A3) had given a counter complaint, which the police had failed to investigate and therefore, Prabavathi (A3) filed a private complaint in CMP.No.369 of 2017 before the Judicial Magistrate No.II, Tiruvallur, which was dismissed on 23.01.2017. Aggrieved by the said order, Prabavathi (A3) filed Crl.R.C.No.502 of 2017, in which, this Court, by order dated 14.07.2017, has issued the following directions :

"As a sequel, the Inspector of Police, Sevvapet Police Station, Thiruvallur District is directed to take the complaint of the petitioner dated 12.10.2016 on file and investigate the same in accordance with law. It is made clear that while making such investigation, the complaint already filed by the respondent where the F.I.R was also registered, should also be correspondingly investigated and ultimately charge sheet if need be, filed in accordance with law, within a period of three months from the date of receipt of a copy of this order.

With these directions, the Civil Revision Petition is disposed of."

6. The learned counsel for the accused/petitioners contended that in matters relating to a case and counter, the police should have followed the procedure laid down in Police Standing Orders 588 A and should have filed two charge sheets before the Court. In support of his contention, he placed strong reliance upon several judgements.

7. One cannot have two opinions in the submission of the learned counsel for the accused/petitioners inasmuch as, when there is a case and counter, if the police do not know who is the real aggressor, they are required to file two charge sheets and it is for the Court to decide who is the offender. In this

case, a complaint has been filed first by Deepa, since she was injured in the attack. As a counter blast, Prabavathi (A3) lodged a private complaint seeking police investigation, which was dismissed by the Judicial Magistrate No.II, Thiruvallur. Even before the order passed by this Court in Crl.R.C.No.502 of 2017, the police had completed the investigation in Crime No.355 of 2016 and had filed a charge sheet as early as on 29.05.2017. Therefore, this is not a case covered under Police Standing Orders 588 A. However, on the directions of this Court, the police have registered an FIR in Crime No.116 of 2018 on the complaint of Prabavathi (A3) against Deepa and the investigation is pending.

8. In such view of the matter, this Court directs the respondent police to complete the investigation in Crime No.116 of 2018 within a period of three months from the date of receipt of a copy of this order and either file a closure report or charge sheet, as the case may be.

9. Coming to the factual position, based on the statement of Deepa, this Court finds that she was attacked by three accused and she sustained injuries in the said attack. When there are prima facie materials in the charge sheet in Crime No.355 of 2016, the proceedings cannot be quashed in the light of the law laid down by the Supreme Court in State of Haryana Vs Bhajan Lal [(1992) Supp [1] SCC 335].

In the result, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Thiruvalluvar.

2.The Inspector of Police
B4 Sewapet Police Station
Thiruvalluvar District.

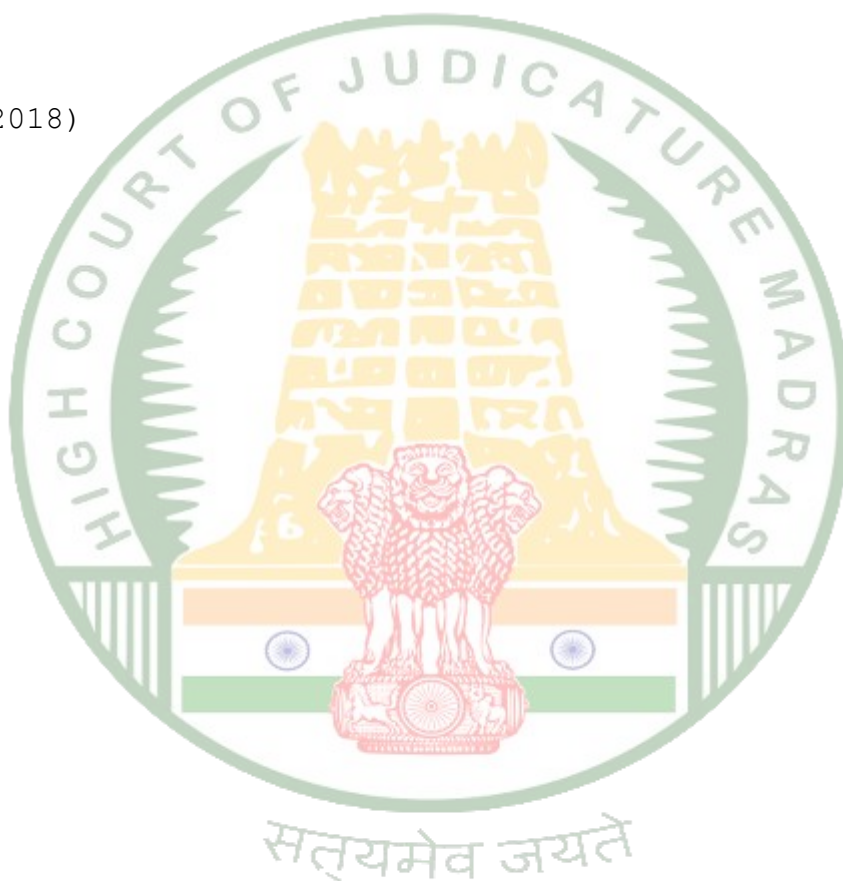
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3. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.M. Prabakar, Advocate sr 35157.

Cr1.O.P.No.12559 of 2018

SP(13/06/2018)



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