

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Reserved on : 08.03.2018)

(Pronounced on : 11.06.2018)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.14262 of 2010

and

M.P.No.1 of 2010

1.Dr.Anandhi

2.Arun@Arumugham

3.Partheebhan

.... Petitioners/Accused 1 to 3

.. Vs ..

State represented by

The Inspector of Police,

Thiruvannamalai,

Thiruvannamalai District

(Crime No.50 of 2008)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.379 of 2009 on the file of Judicial Magistrate No.1, Thiruvannamalai and quash the same as illegal.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.T.Shunmuga Rajeswaran
Govt. Advocate (Crl. Side)

ORDER

This criminal original petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.379 of 2009 on the file of Judicial Magistrate No.1, Thiruvannamalai and quash the same as illegal.

2. The case of the prosecution is that on 2.2.2008, at about 10.00 hours, the respondent police received an intimation from the Government Hospital, Thiruvannamalai, based on which, Tr.Rajasekar, Sub Inspector of Police attached to respondent police station, went to the said hospital and recorded the statement of the de-facto complainant, namely Tr.Manoharan, S/o.Manthirammoorthy, in which, he stated that he is running a hotel in the name of "Tasty Cafe". While so, on 1.2.2008 at about 10.00p.m., while he was in the hotel, one Anandhi (A1), an Ayurvedic Doctor came to his hotel and asked food, but he informed that food distribution was closed, but she insisted to make new food, and the same was refused by the

complainant. Thereafter, she left the hotel and again she came there along with her brothers, namely Arun @ Arumugam [A2] and one Partheeban [A3] and they abused the complainant in filthy language. The said Arun@ Arumugam [A2] attacked the complainant with knife, and the complainant sustained grievous injury on his left hand wrist. After hearing the noise, the brother of the complainant Karthikeyan came to the spot, and immediately, the said Karthikeyan [A3] also attacked him with knife, and hence he sustained injuries on his left hand figure. Subsequently, the accused persons gave life threat to the complainant and his brother escaped from the spot. Hence, the complaint.

3. Based on the above complaint, a case was registered in Thiruvannmalai Town Police Station in Crime No.68 of 2008 for the offences U/s.448, 294(b), 323, 324 & 506(ii) IPC against the accused persons (A1 to A3).

4. During the course of investigation, the Police arrested the accused Anandhi[A-1] and apprehending arrest, the accused persons [A2 & A3] obtained Anticipatory bail before the District Sessions Court, Thiruvannamalai in C.M.P.No.1482 of 2009 & C.M.P.No.1539 of 2009. After completion of investigation, based on the statement of the witnesses and material evidence altered the Section of the offences of this case to "U/s.448, 294(b), 324, 326, 506(ii) IPC r/w 109 IPC against the accused persons [A1 to A3] and the investigating officer filed charge sheet against them before the Judicial Magistrate Court No.I, Thiruvannamalai and the same was taken on file in C.C.No.397 of 2009.

5. During the course of trial, the second accused namely Arun @ Arumugam died on 8.10.2010. Based on the Death Certificate and Post Mortem Certificate of A2, the trial Court abated the case as against him on 1.2.2011.

6. Pending trial, the petitioners/accused [A1 to A3] filed this present petition praying to call for records/quash/stay the case in C.C.No.397 of 2009 pending on the file of the Judicial Magistrate Court No.I, Thiruvannamalai and this Court granted interim stay on 1.3.2011.

7. It is stated by the learned Government Advocate (Crl. Side) appearing for the respondent that the second accused Arun Arumugam died on 8.1.2010 and necessary Death Certificate has been filed before the trial Court. The proceedings as against the second petitioner shall stand abated.

8. With regard to the proceedings against the first and third petitioners, after going through the records and also noting the fact that all the prosecution witnesses have clearly spoken about the occurrence and the presence of the first and third petitioners and the contention raised that a

false case has been foisted against them, which can be gone into only at the stage of the trial by adducing the evidence and hence, the clear plea raised by them being the matter for evidence, I am not inclined to entertain this petition.

9. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

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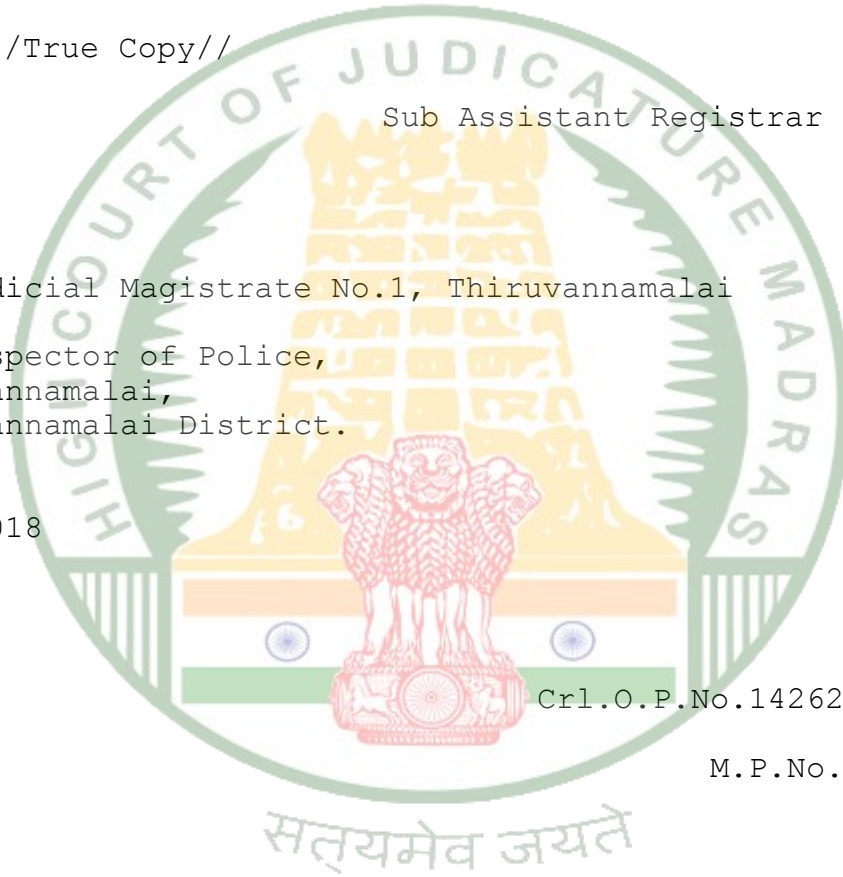
Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1, Thiruvannamalai
2. The Inspector of Police,
Thiruvannamalai,
Thiruvannamalai District.

BR(CO)
sm:21.6.2018



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and
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