

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18078 of 2018
and Crl.M.P.No.9429 & 9430 of 2018

1. Rajendran
2. Kumaresan
3. Shanthi

.. Petitioners

Vs

1. State of rep. by
Sub Inspector of Police,
Jolarpet PS,
Vellore District.

2. Murugan

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings in C.C.No.6 of 2018 on the file of the Judicial Magistrate No.1, Tirupattur, Vellore District, Quash the same.

For Petitioners : Mr.S.Doraisamy

For Respondents : Mr.C.Raghavan (for R1)
Govt. Advocate

O R D E R

On the complaint lodged by Rajendran, the respondent Police registered a case in Crime No.323 of 2017 on 01.10.2017 and after completing the investigation, have filed a charge sheet in C.C.No.94 of 2017 before the learned Judicial Magistrate No.I, Tirupattur for the offences under Section 147, 294[b], 323 and 324 IPC against Balu and four others. It is the case of Rajendran that he is running a hardware shop in Jolarpet; there was a dispute between Rajendran and Balu group with regard to the administration of a local temple; that on 30.09.2017, Balu group had assaulted him and abused him. Hence, the FIR and the consequent charge sheet.

2.On the complaint lodged by Murugan, the respondent

Police registered a counter case in Crime No.324 of 2017 on 01.10.2017 under Section 294[b] and 324 IPC and after completing the investigation, have filed a charge sheet in C.C.No.6 of 2018 before the learned Judicial Magistrate No.I, Tirupattur against Rajendran and Kumaresan. It is the case of Murugan that on 30.09.2017, a quarrel ensued, in which, Rajendran group had assaulted him. Under such circumstances, Rajendran group has filed the present quash petition to quash the prosecution in C.C.No.6 of 2018.

3.Heard Mr.S.Doraisamy, learned Senior Counsel appearing for the petitioner/accused, who submitted that there are no clear overt acts as against the accused in the complaint given by Murugan and in the statement of the prosecution witnesses.

4.Per contra, learned Government Advocate refuted the contentions.

5.This Court gave its anxious consideration to the rival submissions. On a conspectus of the facts obtaining in this case, it is obvious that Balu group and Rajendran group had a scuffle, in which, Rajendran and Murugan were injured. Dr.K.M.Sivakumar, who has treated both of them has given a statement under Section 161[3] Cr.P.C. and also given the wound certificate.

6.In a case of this nature, one prosecution cannot be quashed leaving out the other. It is for the trial Court to conduct a simultaneous trial of both the cases and pass judgment on the same day in accordance with law laid down by the Supreme Court in Nathi Lal Vs State of U.P. and another reported in 1990 SCC [Cr1.] 638. Under such circumstances, this petition is closed with liberty to the petitioner/accused to raise all the points before the trial Court, after the charges are framed. The trial Court shall conduct simultaneous trial in Crime Nos.323 and 324 of 2017 and not joint trial and deliver judgment on the same day. Consequently, connected Miscellaneous Petitions are closed.

7.The 3rd petitioner/Shanthi shall appear before the trial Court for receiving copies under Section 207 Cr.P.C., for answering charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if she files an application under Section 317 Cr.P.C., on undertaking that she will not dispute her identity and that, her counsel will cross-examine the witnesses when they examined in-chief, as held by the Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MLJ [Cr1] 288, the same shall be liberally construed. If she adopts any dilatory tactics, the trial Court shall insist upon her presence. If she absconds, a fresh FIR can be

registered against her under Section 229-A of IPC.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

gya

To

1. Judicial Magistrate Court No.I,
Tirupattur.

2. The Sub Inspector of Police,
Jolarpet PS,
Vellore District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Doraisamy, Advocate SR.No.47016

CRL.OP.No.18078 of 2018

KS (CO)
GN (01/08/2018)



WEB COPY