

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.29772 of 2018

and

Cr1.M.P.Nos.17449 and 17450 of 2018

1.P.Ganesh Kumar

2.G.Pitchandi : Petitioners/Accused 1 and 2

Vs.

1.State Rep by Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai-600 071.
(Crime No.1081 of 2017)

2.P.Kalaimani : Respondents/ Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the Charge Sheet in C.C.No.331 of 2017 on the file of the learned Judicial Magistrate II, Poonamallee and quash the same.

For Petitioners : Mr.M.R.Kuyilan

For 1st Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.331 of 2017, pending on the file of the learned Judicial Magistrate II, Poonamallee.

2.These petitioners have been arrayed as A1 and A2 in the final report. It is the case of the prosecution that on 29.06.2017, these petitioners attacked the defacto complainant as a result of which, he sustained injuries. Based on the complaint given by the defacto complainant, an FIR came to be registered against the petitioners in Crime No.1081 of 2017, for

an offence under Sections 341, 294(b), 324, 506(ii), 326, 323 r/w Section 34 of IPC.

3.The learned counsel for the petitioners would further submit that based on the complaint given by these petitioners, an FIR came to be registered by the very same respondent Police against the defacto complainant in Crime No.1166 of 2017. Both these First Information Reports were investigated and separate final report have been filed before the Court below. The final report against these petitioners has been taken on file in C.C.No.331 of 2017 and the final report against the defacto complainant has been taken on file in C.C.No.149 of 2018.

4.There are prima facie materials against the petitioners and therefore, this Court is not inclined to interfere with the proceedings at this stage. That apart, the counter case has already ended in a final report and the same has been taken cognizance. Therefore, both the cases will have to be tried simultaneously by the Court below. In such circumstances, there is no question of quashing the proceedings pending against the petitioners. It is left open to the petitioners to raise all the grounds before the Court below in the course of the proceedings and the Court below shall consider the same on its own merits and in accordance with law.

5.In the result, this criminal original petition is dismissed and the Court below is directed to proceed further to conduct a simultaneous trial in C.C.No.331 of 2017 and C.C.No.149 of 2018 and complete the proceedings within a period of four months from the date of receipt of a copy of this order. Consequently, connected Crl.M.P.No.17449 of 2018, is closed.

6.The learned counsel for the petitioners would submit that the second petitioner is the Senior citizen and his presence may be dispensed with before the Court below. The presence of the second petitioner shall be dispensed with and he shall be represented by a Counsel before the Court below. The second petitioner shall be present before the Court below at the time of 313 questioning and at the time of passing of judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsg1/ia

To

1.The Judicial Magistrate II,
Poonamallee.

2.The Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai-600 071.

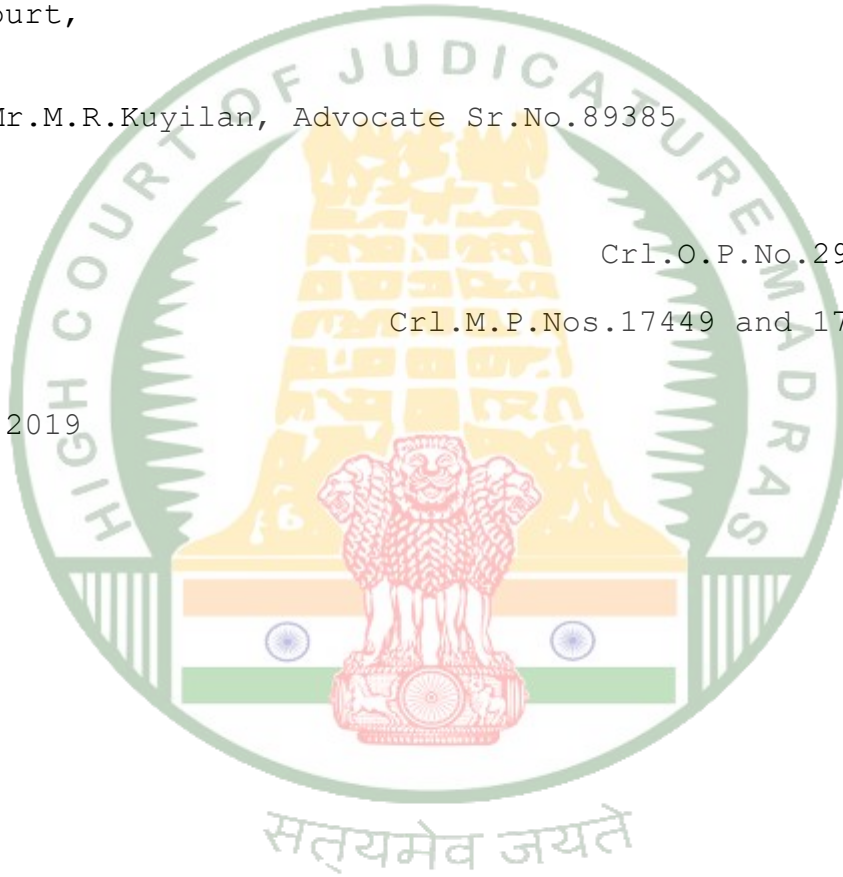
3.The Public Prosecutor,
High Court,
Madras.

+1 cc to Mr.M.R.Kuyilan, Advocate Sr.No.89385

Crl.O.P.No.29772 of 2018
and

Crl.M.P.Nos.17449 and 17450 of 2018

SR(CO)
CSL/24.01.2019



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