



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2018

CORAM:

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.7009 of 2014

and

M.P. (MD) No.1 of 2014

1.Eswari
2.Minor Kasi
3.Asaitambi
4.Ilayaraja

.. Petitioners/Accused No.1,4,2 & 3

Vs.

1.The State rep. by
Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai District.
(Crime No.128 of 2014)

.. Respondent/Complainant

2.N.Pandi

.. Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relates to the F.I.R. in Crime No.128 of 2014 pending on the file of the 1st respondent dated 29.03.2014 and quash the same.

For Petitioners: Mr.T.S.R.Venkataramana

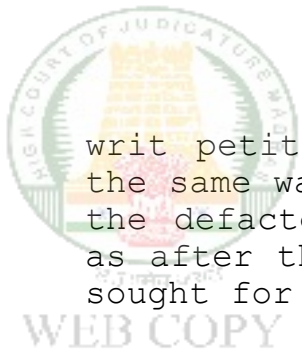
For Respondent : Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.128 of 2014 on the file of the first respondent, dated 29.03.2014, for the offences punishable under Sections 294(b), 341, 323, 506(ii) IPC as against the petitioners.

2.The learned counsel for the petitioner would submit that due to the civil dispute between the parties on the date of alleged occurrence namely on 21.01.2014, the petitioners also lodged a complaint before the same respondent police. The respondent police after receipt of the same issued C.S.R.No.34 of 2014, on 21.01.2014. Further, he submits that he also filed writ petition as against the resolution passed by the Panchayat, dated 28.06.2013. The said writ petition in W.P.(MD).No.10786 of 2013 was allowed by this Court, by order, dated 28.11.2013. Further, he contended that the friend of the defacto complainant filed a



writ petition before this Court in W.P.(MD).No.7624 of 2013 and the same was dismissed, by an order, dated 28.11.2013. Therefore, the defacto complainant never gave complaint on 21.01.2014, only as after thought he sent a complaint on 29.03.2014. Therefore, he sought for quash the FIR in Crime No.128 of 2014.

3.The learned Additional Public Prosecutor submits that almost investigation has been completed in Crime No.128 of 2014 and because of the pendency of this Criminal Original Petition, they could not file final report. Therefore, he sought for dismissal of this petition.

4.Admittedly, on the date of occurrence i.e., on 21.01.2014, there was a quarrel between both groups. It seems that the petitioner also lodged a complaint before the same respondent police and after receipt of the same, it was given C.S.R.No.34 of 2014. On the same time, the second respondent/defacto complainant also lodged a complaint and after receipt of the same, the first respondent did not register the case on the complaint of the second respondent. Therefore, the second respondent approached this Court in Crl.O.P.(MD).No.2933 of 2014 for direction. It seems that this Court directed the first respondent to register the case on the complaint lodged by the defacto complainant. Therefore, the present case has been raised. Further the grounds raised by the petitioners that they are not at the time of occurrence and as such they are taking the plea of alibi. Now, as per the submission of the learned Additional Public Prosecutor, investigation is completed and yet to file charge sheet. At this stage, plea of alibi cannot be considered by this Court. Therefore, the prayer sought for in this petition cannot be considered by this stage and also the FIR cannot be quashed on which they are held. Therefore, this Court is not inclined to allow this Criminal Original Petition.

5.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS-IV)

To

1.The Inspector of Police,
Nagamalai, Pudukkottai Police Station,
Madurai District.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY +1 CC To MR.T.S.VENKAT RAMANA, Advocate SR. NO. 88140

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