



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P (MD) No.15544 of 2017

and

Crl.M.P. (MD) Nos.10340 and 11099 of 2017

Sundharaiah

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tirunelveli District.

... 1st Respondent/Complainant

(Amended as per order of this
Hon'ble Court made in Crl.MP (MD)
No.11099/2017 in Crl.OP (MD)
No.15544/2017 dated 07.12.2017 by
SSSRJ)

2.Madasamy

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.207 of 2017 on the file of the 1st respondent herein and quash the same.

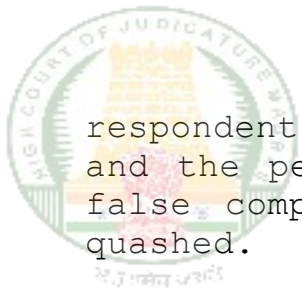
For Petitioner : Mr.N.Sankar Ganesh

For R-1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Criminal Side)

O R D E R

This petition has been filed by the petitioner/accused to quash the FIR in Crime No.207 of 2017 on the file of the first respondent police.

2.The learned counsel for the petitioner has submitted that the petitioner is working as a Thalaiyari, in Irumankulam village. He further submitted that the defacto complainant/second respondent in his complaint dated 11.09.2017, has stated that he has paid a sum of Rs.20,000/- to the petitioner for getting transfer of patta for his lands, but on 06.08.2014 itself, the second respondent <https://hcservices.courts.gov.in/hcservices/> brothers and his father has sold their property through a registered sale deed in favour of one Basil Joseph. He further submitted that after selling the property, the second



respondent requested the petitioner to get patta for the said land and the petitioner has refused to help him and hence, he gave a false complaint against the petitioner and the same has to be quashed.

3. The learned Government Advocate (Criminal Side) has submitted that on 11.09.2017 at about 07.00 pm, when the second respondent was proceeding to his wife's house, the petitioner herein waylaid him and used obscene words and attacked him with stick and caused injuries and also attacked the second respondent's father and hence, both the second respondent and his father were admitted in the Government Hospital, Sankarankovil and they took treatment. He further submitted that after receiving intimation from the said hospital, the first respondent police rushed to the hospital and got statement from the second respondent and registered a case in Crime No.207 of 2017 under Section 341, 294(b), 323 and 506(ii) IPC. He further submitted that based on the motive aspect alone, the First Information Report (FIR) cannot be quashed. He further submitted that since the second respondent and his father have sustained injuries, the motive aspect has to be decided only by the trial Court, after examining the witnesses.

4. In the F.I.R. it is stated that the petitioner has attacked the second respondent with stick and caused injuries on his head and when the second petitioner's father intervened, he was also attacked with the same stick on his head and caused injuries. The learned Government Advocate (Criminal Side) has produced copies of the accident register and the said documents would show that the second respondent and his father have sustained injuries.

5. The motive is relevant only if the case is based on the circumstantial evidence. Whereas in this case the injured himself gave a complaint and therefore at this stage, the motive cannot be taken in to consideration. A perusal of the FIR and accident registers would show that a prima facie case is made out against the petitioner and therefore the F.I.R. cannot be quashed at the threshold. Accordingly, this Criminal Original Petition is dismissed. It is open to the petitioner to establish the motive before the trial Court at the time of trial. Consequently, the connected Miscellaneous Petitions are closed.

sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar



To

1. The Inspector of Police,
Sankarankovil Taluk Police Station,
Tirunelveli District.

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

+1 CC to Mr.N.SANKAR GANESH, Advocate SR.No.46264.

CRL.O.P (MD) No.15544 of 2017
02.02.2018

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