



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

WEB COPY

Crl.O.P.(MD)No.13472 of 2013

1.Rajathi

2.Prabhu

... Petitioners/Accused

Vs.

1.The Inspector of Police,
Vadipatty Police Station,
In Crime No.730 of 2010.

...Respondent/Complainant

2.Duraipandi

... Respondent/Defacto Complainant

PRAYER: The Petition filed under Section 482 Cr.P.C. to call for the records in Cr.No.730 of 2010 on the file of the Inspector of Police, Vadipatti Police Station and quash the same.

For Petitioners : Mr.N.Sundareshan
for M/s. Sun Associates.

For R1 : Mr.K.Anbarasan,
Government Advocate (Crl.side)

For R2 : No Appearance.

ORDER

This Criminal Original Petition has been filed to call for the records in Cr.No.730 of 2010 on the file of the Inspector of Police, Vadipatti Police Station and quash the same. The petitioners herein are the accused in Crime No.730 of 2010 on the file of the 1st respondent Police for the offence punishable under Sections 294(b), 336, 323, 506(i) IPC.

2.The first and foremost contention raised by the petitioners is that the alleged FIR was registered after receiving a complaint from the 2nd respondent, after a lapse of three days. Further, the learned counsel appearing for the petitioners submitted that due to previous enmity, the de facto complainant lodged this false complaint without any bona fide reasons. Hence, he seeks to quash the FIR.

3.The learned Government Advocate (Crl.side) appearing for the State submitted that so far, the final report to this case has not been filed .



4. Considering the submissions of the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the State, it reveals that the de facto complainant made allegation as during the time of alleged occurrence, the petitioners herein assaulted with stones and thereby, the de facto complainant sustained injuries in his eye, nose and chest. Further, he made allegation as the petitioners herein have criminally intimidated by using filthy language.

5. In the judgment rendered in Ajay Kumar Das Vs. State of Jharkhand and another reported in 2011 (12) SCC 319, the Hon'ble Apex Court has held as follows:

'15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.'

6. Considering the judgment of the Hon'ble Apex Court, it reveals that the factual aspects can be settled by way of trial. However, the respondent Police is not yet filed the charge sheet. Therefore, it would appropriate to give some direction to the 1st respondent before closing this petition. Accordingly, the 1st respondent Police is directed to file the final report before the Court concerned, within a period of three months from the date of receipt of a copy of this order.

7. With above observations, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police, Vadipatty Police Station,
Madurai District

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