



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.(MD).No.18116 of 2013 and
M.P(MD).Nos. 1 & 2 of 2013

1.A.M.Shihabudeen
2.Abdul Sukkur

... Petitioners/Accused No.1 & 2

Vs.

1. The State Represented by
The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.

... 1st Respondent/Complainant

2. Mohammed Abdul Kadar

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.76 of 2011 pending on the file of the learned Judicial Magistrate, Pattukkottai and quash the same.

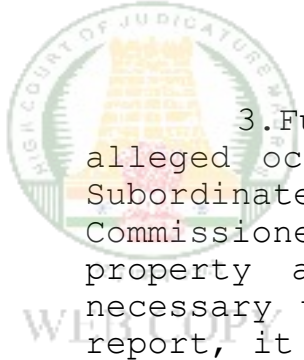
For Petitioner : Mr.Veera Kathiravan, Senior Counsel
for Mr.C.Jeganathan

For R-1 : Mr.A.Robinson
Government Advocate(Crl.Side)

O R D E R

The petitioners herein are the accused nos. 1 and 2 in C.C.No.76 of 2012 on the file of the learned Judicial Magistrate, Pattukkottai. They filed this application to call for the records pertaining to C.C.No.76 of 2012 and to quash the same as illegal.

2.On discussing the submissions made by the learned counsel appearing for the petitioner, it appears that in the charge sheet, the first respondent mentioned the allegations against the petitioners herein that on 18.09.2011 at about 11.30 a.m., without getting any permission from the defacto complainant, the petitioners herein had entered into the defacto complainant's college campus and measured the play ground. When the same was questioned by the defacto complainant, the petitioners herein abused the defacto complainant by using the filthy language, for which, the first respondent police registered a case for the offences punishable under Sections 294(b), 447 and 506(ii) I.P.C.,



3. Further, the learned counsel submitted that on the date of alleged occurrence, as per order passed by the learned Principal Subordinate Judge, Thanjavur in W.O.P.No.4 of 2001, the Advocate Commissioner went to the scene of occurrence for measuring the property along with an Engineer and Photographer. But, it is necessary to understand that in paragraph-4, of the Commissioner's report, it reveals that he did not specifically state anything about the time, when he entered into the scene of occurrence, he mentioned only with regard to giving notice to the Secretary of the College and after getting objection from the said person, he replied that next time when he will visit, after giving the notice. Therefore, the report submitted by the Advocate Commissioner did not disclose anything about the alleged occurrence. In other aspects, since the case has been registered for the offences punishable under Sections 294(b), 447 and 506(i) I.P.C., the allegations levelled against the petitioners only based on the factual aspects. So, in order to verify the genuineness of allegations levelled against the petitioners, examination of witness is necessary.

4. For the reasons stated above, this Court is not inclined to quash the proceedings in C.C.No.76 of 2011 pending on the file of the learned Judicial Magistrate, Pattukkottai. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Pattukkottai.
2. The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO M/s.VEERA ASSOCIATES, IN SR No. 54739

MSA
TE/JC/SAR-1 : 11/04/2018 : 2P/5C