

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.444 of 2016

&

CRL.MP.2980/16

1. Singamuthu
2. Sundari
3. Dinesh
4. Venkatesan

....Petitioners/Accused 1 to 4

Vs.

1. The State rep. by  
The Inspector of Police,  
S-7 Madipakkam Police Station,  
Chennai.

2. M. Srinivasan

...Respondents 1 & 2/Complainant/Defacto Complainant

Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order passed by the learned Assistant Sessions Judge, Tambaram in C.M.P.No.642 of 2013 in S.C.No.131 of 2013 dated 12.01.2016 refusing to discharge the petitioners under Section 227 of Cr.P.C. from the charges under Sections 447, 294(b), 323 and 307 IPC.

For Petitioners : Dr.A.Thiyagarajan,  
Senior Counsel for Mr.S.Ramesh Kumar

For Respondents : Mr.R.Ravichandran For R1  
Govt. Advocate (Crl. side)  
For R2 - Notice served - No appearance

O R D E R

The Criminal Revision Case has been filed to set aside the order passed by the learned Assistant Sessions Judge, Tambaram in C.M.P.No.642 of 2013 in S.C.No.131 of 2013 dated 12.01.2016

2. Based on the complaint given by the second respondent before the first respondent Police, they have registered a case against the revision petitioners/accused in Crime No.210 of 2011 for the offence under sections 447, 294(b), 323 and 307 read with 34 IPC. After registering the case and investigation, the first respondent Police laid a charge sheet before the learned Judicial Magistrate, Alandur and the same was transferred to the Sessions Court. The learned Sessions Judge has taken the case on file in S.C.No.131 of 2013 and initiated the proceedings and the same is pending before the Additional Sessions Judge, Tambaram. The revision petitioners filed a petition in C.M.P.No.642 of 2013 in S.C.No.131 of 2013 to discharge them from the above offence. The learned Magistrate, after hearing both sides and also considering the petition and counter filed by both the parties, dismissed the petition on the ground that prima facie case is made out against these revision petitioners to proceed with the case further. Challenging the said order, the petitioners therein filed the present revision before this Court.

3. The learned counsel for the petitioners would submit that the defacto complainant is not the real author of the complaint. The defacto complainant did not want to disclose the person who had written the complaint. The suppression of the identity of person speaks volume about the falsity of the case. There is no prima facie material to suggest that the petitioner attacked the defacto complainant. The doctor's evidence and wound certificate shows that there are no external injuries and the injuries are simple in nature. The first respondent has foisted a false case against the petitioners and the very cause of action itself disclose that civil dispute was converted into criminal case. The medical evidence clearly shows that the injuries are simple. There is no sufficient reason to frame the charges and hence, the learned counsel for the petitioners prays to set aside the order passed by the learned Assistant Sessions Judge, Tambaram in C.M.P.No.642 of 2013 in S.C.No.131 of 2013 dated 12.01.2016.

4. The learned Government Advocate (CrI. side) would submit that the complaint itself shows that there is prima facie allegation available against the petitioners. During investigation, the respondent police have recorded statements of the witnesses and the witnesses have clearly spoken about the involvement of the revision petitioners. It is settled proposition of law that while deciding the petition under Section 227 Cr.P.C., the Court has to look into the records submitted by the prosecution under Section 173 Cr.P.C.. If the records filed by the prosecution reveals prima facie case against the petitioners, the Court can proceed further.

5. In this case, on a reading of the records filed by the prosecution under Section 173 Cr.PC, it is clear that there is a prima facie material to proceed further against the revision petitioners. The probative value of the evidence need not be gone into at this stage. Further, the defence taken by the accused need not be look into. The learned Judge has rightly dismissed the case and there is no need to interfere with the order.

6. Heard the learned counsel for the petitioners as well as the learned Government Advocate (Crl. side) and also perused the materials available on record.

7. The learned counsel for the petitioners submitted that the charge sheet itself has not disclosed who is the author of the complaint and there is only simple injuries. There is a civil dispute between the petitioners and the Gandhi Kannadasan, Josphine edwin and others in O.S.No.752 of 2011 and the same was pending. The civil dispute has been given colour as criminal case. The doctor's evidence shows that only simple injuries were caused. No materials were recovered and placed before the Court. It is settled proposition of law that while deciding the petition under Section 227 Cr.P.C., the Court has to look into the records submitted by the prosecution under Section 173 Cr.P.C. Based on the complaint the respondent Police investigated the matter and collected the oral and documentary evidence and filed final report along with documents. At that time of deciding the petition under Section 227 of Cr.P.C., the Court has to consider the records filed under Section 173 Cr.P.C. and not the defence taken by the accused. Further, the learned counsel for the petitioner submitted that the learned Session Judge has not given any discussion and finding regarding the documents. It is also settled proposition of law that while deciding the petition filed under Section 227 of Cr.P.C., the probative value of the materials also need not be gone into at this stage. Further, on the records filed by the prosecution under Section 173 Cr.P.C., this Court finds that there is sufficient ground for proceeding against the accused. There is a prima facie allegation made out against the accused to proceed with the case further. All the defence taken by the accused can be decided during trial. At that time, the Court can consider all the defence taken by the accused and not at this stage. On a perusal of the records filed by the prosecution under 173 Cr.P.C., statement recorded by the Investigation officer under Section 161 Cr.P.C., and also medical evidence, this Court finds that there is a prima facie allegation made out against the revision petitioners and this Court does not find any merit and ground to interfere with the order of the Court below.

8. With the above reasons, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rli

To

1. The Assistant Sessions Judge, Tambaram.
2. The Inspector of Police,  
S-7 Madipakkam Police Station,  
Chennai.
3. The Public Prosecutor,  
High Court, Madras.
4. The Section Officer,  
Criminal Section,  
High Court, Madras.
5. The Judicial Magistrate,  
Alandur.

+1cc to Mr.S.Ramesh Kumar, Advocate sr.26956

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