

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.19966 of 2017  
and Crl.M.P.Nos.12048 & 12049 of 2017

1. K.Prabhu
2. Thennarasan
3. Kamalanathan
4. Gunalan

...Petitioners/A1 to 4

Vs.

- 1.State rep. by  
Sub Inspector of Police,  
Peranambattu Police Station,  
Vellore District  
(Crime No.39/2014)

... 1<sup>st</sup> Respondent/Complainant

- 2.K.Mohan

...2<sup>nd</sup> Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to C.C.No.138 of 2017 on the file of the Judicial Magistrate Court at Gudiyattam, Vellore District and quash the charge sheet filed by the first respondent police against the petitioners in the above case.

For Petitioners: Mr.R.Rajasekaran

For RR1 : Mr.M.Mohamed Riyaz  
Additional Public Prosecutor

For RR2 : Mr.S.N.Arun Kumar

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ORDER

This petition has been filed to call for the records pertaining to C.C.No.138 of 2017 on the file of the Judicial Magistrate Court at Gudiyattam, Vellore District and quash the charge sheet filed by the first respondent police against the petitioners in the above case.

2. The learned counsel for the petitioners would submit

that based on the complaint given by the defacto complainant, a case in Crime No.39 of 2014 has been registered against the petitioners and another on the allegation that the defacto complainant was beaten up with hands, stamped with legs and caused injuries. He further submits according to the complaint, the complainant was assaulted by five male persons using their hands and their legs, but the respondent police has filed charge sheet stating that crow bar and knife were used by the petitioners for assaulting the complainant. He further submits that initially case was registered under Sections 147, 148, 294 (b), 323, 324, 325 and 506(ii) I.P.C, and subsequently final report was filed altering the sections into 147, 148, 294(b), 323, 326 & 506(ii) I.P.C. He further submits that there is no specific allegation as against the third petitioner except that he slapped the complainant on ear with his hand. He further submits that false allegations have been made against the petitioners as such they have filed this petition.

3. The learned Additional Public Prosecutor would submit that due to previous enmity over the disputed ancestral property, the petitioners and another have beaten the complainant. He further submits that the fifth accused picked up a stone and gave to A1, who then threw the same on the complainant and caused injuries. Further A3 also assaulted the complainant with hand. He further submits that all the accused persons have severely beaten the complainant with hands and also stamped with legs thereby caused injuries. He further submits that there are specific allegations against all the petitioners. Hence, he prayed for dismissal of this petition.

4. It is seen that the case was initially registered under Sections 147, 148, 294(b), 323, 324, 325 and 506(ii) I.P.C, and subsequently final report was filed altering the sections into 147, 148, 294(b), 323, 326 & 506(ii) I.P.C. It is also seen there are specific allegations against all the petitioners. Even against the third petitioner there is a specific allegation. From the statement of witness one, M.Yuvaraj, it is noted that the third petitioner beat the complainant with his hand and the second petitioner also beat with small crow bar. Hence, these aspects have to be established before trial Court, as such this Court is not inclined to allow the prayer sought for in this petition.

5. However, considering the age of the third petitioner, the personal appearance of the third petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The third petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment etc.,.

6. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

pds/lok

To

- 1.The Judicial Magistrate Court,  
Gudiyattam.
- 2.Do Thro The Chief Judicial Magistrate,  
Vellore.
- 3.The Inspector of Police,  
Pernambut Police Station,  
Vellore District.
- 4.The Public Prosecutor,  
High Court of Madras.

+1cc to Mr.S.N.Arun Kumar, Advocate, S.R.No.15657  
+1cc to Mr.R.Rajasekaran, Advocate, S.R.No. 15745

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SV(CO)  
GN(15/03/2019)

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