



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P. (MD) No.2177 of 2018

and

Crl.M.P. (MD) No.973 of 2018

1.Ganesan

2.Kala

... Petitioners / Accused Nos.1 & 2

Vs.

1.State represented by
The Inspector of Police,
P.C. Patty Police Station,
Theni, Theni District.
(In Crime No.20 of 2018)

... 1st Respondent / Complainant

2.Sindhuja

... 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 impugned FIR in Crime No.20 of 2018 dated 11.01.2018 on the file of the first respondent for the alleged offence said to have been taken place on 08.01.2018 and to quash the same.

For Petitioners	:	Mr.R.Murugan
For R1	:	Mr.A.P.G.Ohm Chairma Prabhu, Government Advocate (Crl.Side).
For R2	:	Mr.A.Uthayakumar

ORDER

The petitioners herein are the husband and wife, who are arrayed as accused Nos.1 and 2 in Crime No.20 of 2018 for the offences under Sections 341, 294(b), 323 and 506(i) IPC.

2.The case of the second respondent / defacto complainant is
<https://hcs.e-sls.gov.in/hcs/e-sls> the owner of the house bearing Door No.3/1, 7 E, Vasavi
Colony, 2nd Street, in which the petitioners herein are the



neighbors. There was a common pathway measuring 12 feet width leading to Theni-Kumuli Main Road on the Northern side of the house. Due to existing dispute in between them, the defacto complainant's husband instituted a suit in O.S.No.164 of 2014 before the District Munsif Court, Theni, when he was alive and frequently, the petitioners were disturbing the possession and enjoyment of the property of the defacto complainant and her tenant, for which the defacto complainant has filed a complaint before the respondent police. The respondent police summoned the petitioners and they agreed that they will not disturb the defacto complainant till the disposal of the suit. Even thereafter, on 08.01.2018, the petitioners waylaid the defacto complainant and her grandmother and attacked them. Due to which, they sustained injuries and filed a complaint before the respondent police. Against which, the petitioners are before this Court, seeking to quash the First Information Report.

3.The learned counsel for the petitioners would submit that the necessary ingredients required for the offences under Sections 294 (b), 323, 341 and 506(i) and IPC are not satisfied and the First Information Report has been filed in order to harass the petitioners and accordingly, they prayed for quashing the First Information Report.

4.In respect of his contention, he also placed reliance on the judgment reported in **(2011) 7 SCC 59 (Joseph Salvaraj A. Vs. State of Gujarat and others)**, wherein the Hon'ble Apex Court held that even after filing of the charge sheet, the First Information Report can be quashed.

5.The learned Government Advocate (Crl.Side) for the first respondent would submit that after receiving information from the defacto complainant, the respondent police conducted an investigation and final report is not yet filed, in view of the order of stay granted by this Court on 19.02.2018.



6.The learned counsel appearing for the second respondent would submit that the petitioners threatened the defacto complainant and her tenant, including other persons, who are residing in nearby area. On 08.01.2018, they assaulted the defacto complainant and her grandmother. Due to which, they sustained injuries and filed the complaint, in which the Law Enforcing Agency has conducted an investigation.

7.A perusal of the First Information Report reveals that *prima facie* case is made out against the petitioners. Based on the complaint given by the second respondent, the Law Enforcing Agency has conducted investigation and charge sheet is made ready.

8.Considering the facts and circumstances of the case, by applying the ratio rendered in the case of ***State of Haryana Vs. Bhajan Lal reported in 1992 SCC (Cr1) 426***, this Court is inclined to dismiss this petition. This Court is of the considered opinion that it is for the Law Enforcing Agency to establish the case against the accused persons beyond reasonable doubt before the trial Court.

9.In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
P.C. Patty Police Station,
Theni, Theni District.

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