



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.O.P. (MD) No.5654 of 2019

and

Crl.M.P. (MD) Nos.3547 and 3548 of 2019

1. Ganesan
2. Raja
3. Rewineeshwari
4. Jeevanantham
5. Tamizhan
6. Dinakaran

... Petitioners/Accused 1 to 6

Vs.

1. State represented through
The Sub Inspector of Police,
Singampunari Police Station,
Sivagangai District.
(In Crime No.210/2017)

... Respondent/Complainant

2. Chandiran

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the case in C.C.No.161 of 2018, on the file of the learned Judicial Magistrate, Thiruppathur and quash the same as against these petitioners.

For Petitioners : Mr.N.S.Ponnaiah

For Respondents : Mr.K.K.Ramakrishnan

Additional Public Prosecutor for R1

ORDER

This petition has been filed to quash the proceedings in C.C.No.161 of 2018, pending on the file of the learned Judicial Magistrate, Thiruppathur as against the petitioners.

2. The case of the prosecution is that there was a long standing enmity between the petitioners and the defacto complainant with regard to the enjoyment of the property. The petitioners entered into the property in dispute and tried to plant stone. When the defacto complainant resisted the same, the petitioners attacked him and his wife with stones and wooden stick and thereby the defacto complainant sustained injury and went to hospital. Thereafter the respondent police registered a case in Crime No.210 of 2017 under Sections 147, 294(b), 323, 324 and 506 (ii) of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. Thereafter, the respondent police conducted the investigation and filed the final report. The trial Court after taking cognizance taken on file in C.C.No.161 of 2018 and this petition is filed to quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel appearing for the petitioners submitted that the offence under Sections 294 (b) and 506 (ii) of I.P.C. is

not made out and simply uttering words against the defacto complainant will not constitute the offence against the petitioners. The defacto complainant instead of filing complaint before the respondent police, went to the hospital and induced the doctor to register a case and there is no proof to show that the petitioners attacked the defacto complainant and his wife with stone and wooden stick and no recovery was ordered. The defacto complainant filed a complaint before the respondent to succeed the property dispute.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that in the present case the defacto complainant and his wife sustained head injury and admitted in the hospital. The respondent police examined the Doctor, who gave treatment to the defacto complainant and his wife and his statement is recorded under Section 161(3) Cr.P.C. Wound certificate also filed along with the charge sheet.

5.Considering the facts and circumstances of the case, this Court is not inclined to interfere with the the ongoing proceedings in C.C.No.161 of 2018 at this stage. Accordingly, this Criminal Original Petition is dismissed.

6.At this juncture, the learned counsel for the petitioners requests that the personal appearance of the petitioners before the trial Court may be dispensed with.

7.Acceding the request made by the learned counsel for the petitioners, the personal appearance of the petitioners before the trial Court is dispensed with on condition that they shall be present for receiving charge sheet, for answering the charges, at the time of questioning under Section 313 Cr.P.C., and at the time of passing judgment. However, the petitioners are directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. Consequently connected miscellaneous petition are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Judicial Magistrate, Thiruppathur
- 2.The Sub Inspector of Police, Singampunari Police Station,
Sivagangai District.

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