



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No. 3067 of 2019

and Crl.M.P.(MD) Nos. 1700 & 1701 of 2019

1. Alaxpandi
2. Selvaraj .. Petitioners/Accused Nos.3 & 6

Vs.

1. The Sub Inspector of Police,
Pattiveeranpatti Police Station,
Pattiveeranpatti,
Dindigul District.
Crime No. 274 of 2017 .. 1st Respondent/complainant

2. Sadaiyandi .. 2nd Respondent/Defacto Complainant

PRAYER:- Petition filed under 482 of Cr.P.C., to call for the records pertaining to the complaint in C.C. No.224 of 2018 on the file of the learned Judicial Magistrate, Nilakottai and quash the same as illegal as against these petitioners.

For Petitioners : Mr.T. Vadivelan

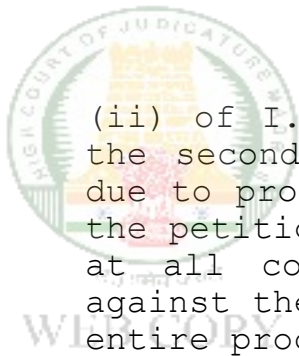
For Respondent-1 : Mr.K. Suyambulinga Bharathi
Government Advocate (crl. Side)

For Respondent-2 : Mr. C. Abdulkalam Azad

ORDER

This petition has been filed to quash the complaint in C.C. No.224 of 2018 on the file of the learned Judicial Magistrate, Nilakottai, as against these petitioners.

2. The learned Counsel appearing for the petitioner submitted that totally there are seven accused in this case in which the petitioners were arrayed as accused Nos.3 & 6. Based on the complaint lodged by the second respondent, the first respondent has registered a case in Crime No.274 of 2017 for the offences under Sections 147, 294(b) and 506(i) of I.P.C. After completion of investigation, they filed final report charged the petitioners for the offences under Section 147 only and in so far as other accused persons were charged for the offences under Sections 294(b) & 506



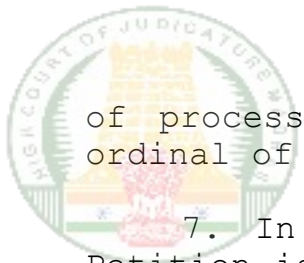
(ii) of I.P.C. He further submitted that the second respondent and the second petitioner are practicing advocate in the same bar and due to professional motive a false case has been foisted as against the petitioners. The entire charge sheet and the statements are not at all contain any material evidence to connect the charge as against the petitioners. Therefore, they sought for quashing of the entire proceedings.

3. The learned counsel appearing for the second respondent would submit that based on a complaint lodged by the second respondent a case has been registered for the offences under sections 147, 294(b), 506(ii) of I.P.C as against the accused persons. Unfortunately, the first respondent without conducting proper enquiry filed final report only for the offences 147 as against the petitioners. He further submitted that there are evidences to attract the offence under Section 147 of I.P.C and also other offences as against the petitioners, but the first respondent charged the offence only under Section 147 of I.P.C. He further submitted that the contents raised by the petitioners are maximum question of fact and it cannot be considered before this Court.

4. The learned Government Advocate (crl. Side) appearing for the respondent police submitted that initially a case has been registered for the offence under Sections 147, 294(b) & 506(ii) of I.P.C as against the petitioners. After completion of investigation filed final report and charged the offence under Section 147 of I.P.C as against the petitioners. There are material evidences to attract the offence under Section 147 of I.P.C. and hence, the Criminal Original Petition is liable to be dismissed.

5. Heard Mr. T. Vadivelan, learned Counsel appearing for the petitioner and Mr.K. Suyambulinga Bharathi, learned Government Advocate (crl. Side) appearing for the first respondent and Mr. C. Abdulkalam Azad, learned Counsel appearing for the second respondent.

6. In this case, initially there are seven accused persons and the petitioners were arrayed as accused Nos.3 & 6. Though, the First Information Report was registered for the offences under Sections 147, 294(b) and 506(ii) of I.P.C, the petitioners were charged only for the offence under Section 147 of I.P.C. There must be whenever force or violence is used by an unlawful assembly, or by member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. For the guilty of rioting shall be punished under Section 147 of I.P.C. It is seen from the statements of the witnesses there is absolutely no allegation to attract the offence under Section 146 of I.P.C to punish the petitioners under section 147 of I.P.C. It is also seen from that there was a dispute between the petitioners family and the second respondent herein. Further the charge has also



of process of law. Therefore, the petitioners need not go for ordinal of the trial.

7. In view of the above observations, the Criminal Original Petition is allowed and the complaint in C.C. No.224 of 2018 on the file of the learned Judicial Magistrate, Nilakottai is quashed as against the petitioners. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate,
Nilakottai.
2. The Sub Inspector of Police,
Pattiveeranpatti Police Station,
Pattiveeranpatti,
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.VADIVELAN, Advocate SR-88946.

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