



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

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

Crl.O.P.(MD)No.14878 of 2014

and

M.P.(MD)Nos.1 and 2 of 2014

1. Murugan
2. Jeyanthi
3. Rajathi
4. Ramakrishnan
5.Thennarasu

... Petitioners

- Vs. -

R.Perumal

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the C.C.No. 128 of 2014 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District and quash the same.

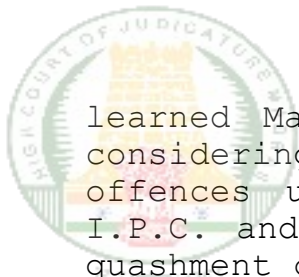
For Petitioners : Mr.K.Guhan

For Respondent : Mr.M.Balamurugan

O R D E R

The petition has been filed to quash the proceedings in C.C.No. 128 of 2014 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District.

2.The learned counsel for the petitioners submitted that the defacto complainant did not lodge any complaint before the concerned jurisdictional police and one Ashokan only lodged the complaint before the jurisdictional police. Further, he submitted that in the complaint lodged by one Ashokan on 21.10.2012. Whereas, the private complaint lodged by the respondent, as if the occurrence took place on 22.10.2012. Further, he submitted that after filing the complaint before the jurisdictional police, the defacto complainant and the other persons did not approach any superior officer for not taking action. Without approaching those higher officials, he straight away filed a private complaint before the



learned Magistrate, Uthamapalayam. The learned Magistrate without considering those aspects, mechanically taken cognizance for the offences under Sections 147, 148, 452, 427, 506(ii) r/w 149 of I.P.C. and Sections 3 & 4 of TNPPDL Act. Therefore, he sought for quashment of entire proceedings.

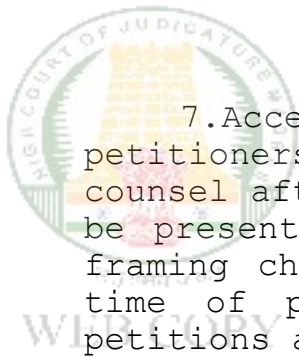
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3.The learned counsel for the respondent submitted that the said Ashokan none other than the son-in-law of the respondent and the very same occurrence, he lodged the complaint. Since the police officer did not take any action, he filed a private complaint before the learned Magistrate and the learned Magistrate taken cognizance against the petitioners herein for the offences under Sections 147, 148, 452, 427, 506(ii) r/w 149 of I.P.C. and Sections 3 & 4 of TNPPDL Act and also issued summons to the petitioners. Therefore, he sought for dismissal of the petition.

4.Heard the learned counsel for the petitioners and the learned counsel for the respondent.

5.The petitioners are arrayed as A1 to A5. According to the respondent is that on 22.10.2012, the accused persons were unlawfully assembled and attacked the defacto complainant by deadly weapons and therefore, he sustained injuries and they are also caused damaged the property, belongs to the respondent, to the tune of Rs.5,000/-. Initially one Ashokan, who is none other than the son-in-law of the respondent lodged the complaint before the Inspector of Police, Cumbum South Police Station. On receipt of the same they did not conduct any enquiry as against the accused persons. Therefore the respondent rightly filed a private complaint before the learned Magistrate, Uthamapalayam and after conducting enquiry and the same has been taken cognizance for the offences under Sections 147, 148, 452, 427, 506(ii) r/w 149 of I.P.C. and Sections 3 & 4 of TNPPDL Act and rightly issued summons to the petitioners. Therefore, the points raised by the petitioners cannot consider on the ground that the victim not lodged any complaint to quash the proceedings. Further the criminal law can be set in motion by any person. This Court finds no merit in this petition. Hence, this Criminal Original Petition is dismissed. However, considering the fact that the trial is pending from the year 2014, the learned Judicial Magistrate, Uthamapalayam, Theni District, is directed to proceed with the trial and complete the same within a period of three months from the date of receipt of a copy of this order.

6.At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.



7. Accepting the said submission, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

1.The Judicial Magistrate,
Uthamapalayam.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.KAURPPASAMY, Advocate SR-87508.

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