



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.14279 of 2015

and

M.P. (MD)No.1 of 2015

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1.Suji
2.Alphonsa
3.Suba
4.Thangappan
5.Johnrose
6.Stephen @ Rajan

... Petitioners

Vs

Abraham Raj

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in complaint in S.T.C.No.72 of 2014 on the file of the Judicial Magistrate No.II, Kuzhithurai and to quash the same.

For Petitioners : Mr.S.C.Herold Singh
For Respondent : Mr.S.Ramakrishna Dass

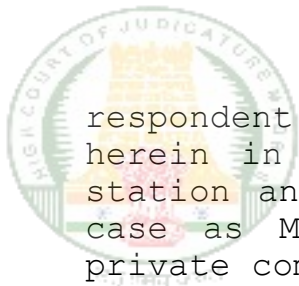
ORDER

The petitioners herein are facing trial in S.T.C.No.72 of 2014 on the file of the Judicial Magistrate No.2, Kulithurai, for the offences under Sections 147, 294(b), 323 and 506(ii) of IPC.

2.It is a private complaint instituted by the respondent herein. To quash the same, this criminal original petition has been filed.

3.Heard the learned counsel on either side.

4.It is not in dispute that the first petitioner Suji and the respondent Abraham Raj got married to each other. Two children were also born. But thereafter, their relationship had come under strain. They were living separately since in the year 2011 onwards. While so, on 27.06.2013, there appears to have been altercation between the two. The first petitioner Suji had suffered simple injuries. Therefore, she lodged a complaint before the Inspector of Police, Puthukadai Police Station in Crime No.213 of 2013. The same was investigated and final report was filed. Cognizance of the offences under Sections 147, 294(b), 323 and 506(ii) of IPC was taken and the case was taken on file in S.T.C.No.335 of 2013 on the file of the Judicial Magistrate No.II, Kulithurai, against the respondent herein. The said case is still pending trial. The



respondent herein also lodged a complaint against the petitioner herein in Crime No.214 of 2013 on the file of the same police station and the same was investigated. The police had closed the case as Mistake of Fact. Aggrieved by the same, the impugned private complaint came to be filed.

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5.I went through the materials enclosed in the type set of papers. It can be seen that there are allegations only against Suji, Alphonsa and Stephen @ Rajan. No specific overt act is attributed against the other petitioners namely Suba, Thangappan and Johnrose. Therefore, the impugned complaint is definitely liable to be quashed as far as the three petitioners are concerned.

6.A mere look at the wound certificate issued in favour of the first petitioner Suji would show that she had suffered abrasions on her left cheek, right forehead and also right neck. The wound certificate was issued by the Government Hospital, Kulithurai. The first petitioner Suji was examined on 27.06.2013 at about 12.45 p.m. On the same day, the respondent was also examined by the Doctor and it has been mentioned that there are no external injuries and that, the respondent only complained of pain over the abdomen /chest.

7.I can therefore safely assume that while the first petitioner herein suffered external injuries though simple in nature, the respondent herein did not suffer any external injury. The respondent appears to have given a complaint against the petitioners herein more as a counter blast. The police had investigated the complaint of the respondent and closed the same as a Mistake of Fact.

8.The petitioner's counsel would state that the first petitioner had filed a divorce original petition against the respondent herein and the same was also allowed.

9.Of-course, the respondent's counsel would claim that the said decree has been put to challenge in the first appeal.

10.Be that as it may, I am of the view that the impugned proceedings are more a counter blast. The continuation of the impugned prosecution against the petitioners will definitely constitute an abuse of legal process.. Therefore, the impugned proceedings are quashed. Hence, the criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (writs)

// True Copy //



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To

The Judicial Magistrate No.II, Kuzhithurai

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-98664[F] dated 15/11/2019)

+1 CC to Mr.N.S.RAMAKRISHNA DASS, Advocate (SR-99147[F] dated 18/11/2019)

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MK (16.12.2019) 3P 4C