



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP(MD) . No.17590 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

1.Geetha
2.Selvarani
3.Pandian @ Pandidurai
4.Raja @ Rajaram

... Petitioners

-Vs-

State through by

1. The Inspector of Police,
Kattuputhur Police Station,
Trichy District.
(Crime No.11/2012)

2. Kamachi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in C.C.No.43 of 2015, on the file of the Judicial Magistrate, Musiri and to quash the same.

For Petitioners : Mr.M.Subash Babu

For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1
: Mr.N.Shanmugavel for R2

O R D E R

The petitioners are figuring as A1, A6, A7 and A9 respectively in C.C.No.43 of 2015, on the file of the learned Judicial Magistrate, Musiri. The defacto complainant is the second respondent.

2.The specific case of the defacto complainant is that there is a pathway dispute between her family and that of the accused. The learned counsel appearing for the defacto complainant states that the husband of the defacto complainant filed a suit in O.S.No.108 of 2015, on the file of the learned Judicial Magistrate, Musiri.

<https://hse.lawcourts.gov.in/hse/lawcourts>



2004 before the learned District Munsif Court, Musiri and that the said proceedings ended in his favour.

3.Be that as it may, on the occurrence date i.e., 14.01.2012, the accused had put boulders on the pathway. When the defacto complainant's husband tried to remove it, he came under attack. When the defacto complainant protested, the first accused is said to have pulled her hair and pushed her down. The second and third accused abused her and the second accused is said to have kicked her on the chest while the third accused hit her with stick. The fourth accused hit her on the shoulders. The defacto complainant lodged a case before Kattuputhur Police Station, leading to registration of Crime No.11 of 2012. The case was investigated and final report was filed against as many as nine persons. The learned Judicial Magistrate, Musiri, took cognizance of the offences under Sections 147, 148, 294(b), 324 and 506(ii) of I.P.C. The case was taken on file in C.C.No.43 of 2015. Out of the nine persons four are before this Court for seeking quash of the impugned proceeding.

4.The petitioners' counsel submitted that the first petitioner is a government servant and that he has with him unimpeachable materials to show that the first petitioner was else where at the time of occurrence. In other words, he is pleading alibi. But then, it is well settled that this will have to be tested only before the Court below. On this ground, I may not be in a position to quash the impugned proceeding. Therefore, this criminal original petition is dismissed as far as the first petitioner is concerned. However, the personal appearance of the first petitioner before the Court below is dispensed with. She needs to appear only on those occasions when her appearance is necessary and imperative. On all other occasions, she can be represented by her counsel.

5.As regards the petitioners 2 to 4, even according to the defacto complainant, though they came to the spot armed with deadly weapons, they did not cause any injury. In this case, apart from petitioners 2 to 4, there are already six accused. It is admitted that there is a civil dispute pending between the parties. Therefore, the possibility of roping in all the family members cannot be ruled out. It is seen that the petitioners 2 and 3 are the wife and son of Senthil Kumar. The fourth petitioner is the son-in-law of the second petitioner. Only by way of general, sweeping and omnibus allegations, they have been implicated. Inasmuch as, they have not caused any injury to the defacto complainant and other witnesses, I am of the view that the continuance of the impugned prosecution against them would be an abuse of legal process. In this view of the matter, the impugned proceedings are quashed as regards the petitioners 2 to 4 and



the proceeding will go on as against the other accused. The criminal original petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar (CS)

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To:

- 1.The Judicial Magistrate,
Musiri.
- 2.The The Inspector of Police,
Kattuputhur Police Station,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.SHANMUGAVEL, Advocate (SR-103356[F] dated
04/12/2019)
+1 CC to Mr.M.SUBASH BABU, Advocate (SR-103549[F] dated
05/12/2019)

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MK (02.03.2020) 3P 6C