



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.6702 of 2017

and

CrI.M.P(MD)Nos.4385 and 4386 of 2017

WEB COPY

1.Selvi @ Angelin
2.Golda
3.Meriam

... Petitioners /Accused No.2 to 4
Vs.

1.State represented by
The Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.
[Crime No.38 of 2015]

... 1st Respondent / Complainant

2.D.J.Suganthi

... 2nd Respondent/ Defacto Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call the records in C.C.No.27 of 2017 on the file of the learned Judicial Magistrate, Cheranmahadevi, Tirunelveli District and quash the proceedings as against the petitioners.

For Petitioners: Mr.A.Thiruvadi Kumar
For Respondent : Mr.R.Anandharaj,
No.1 Additional Public Prosecutor
For Respondent : Ms.S.Deepasree for
No.2 and Ms.Muthu Monisha

ORDER

This petition is filed by the petitioners / accused A2 to A4 in C.C.No.27 of 2017 on the file of the learned Judicial Magistrate, Cheranmahadevi, Tirunelveli District to quash the proceedings in C.C.No.27 of 2017.

2.A complaint was lodged by the second respondent / defacto complainant that while taking water from a public tap on 03.02.2015 at about 5.00pm, out of previous enmity, the accused No.1 along with these petitioners abused the defacto complainant with filthy words and also criminally intimidated.

3.The petitioners filed this petition on the ground that there was civil dispute pending between the petitioners and the defacto complainant and also by listing out the number cases pending against them, it is contended that due to the civil dispute pending between the parties, to take advantage in the civil proceedings, this complaint has been foisted by the second respondent / defacto complainant.



4.Per contra the learned Counsel appearing for the second respondent / defacto complainant would submit that the occurrence has taken place as averred in the complaint and it is supported by three eye witnesses to the occurrence and apart from that the investigating agency have also thoroughly investigated this complaint and filed a final report.

5.The motive stated by the petitioners herein is admitted and it is a double edged weapon and out of this motive only the occurrence has taken place. Therefore, on the ground that the civil dispute is pending between the parties, it cannot be quashed at a threshold without even adducing evidence, when there are three eye witness to the occurrence.

6.The learned Additional Public Prosecutor appearing for the State also by relying upon the listed witnesses would submit that the prosecuting agency has conducted investigation, filed a final report and there are three eye witnesses to the occurrence. If this case is foisted on account of civil dispute pending between the parties or not, can be adjudged only during the trial, while examining the witnesses before the trial Court.

7.I am in confirmity with the grounds raised by the learned Counsel for the second respondent that merely because of the motive between the parties and the civil dispute is pending, it cannot be taken as a ground to quash the proceedings, when there are three eye witnesses shown in the list of witness in the final report.

8.Under such circumstances, considering the nature of the offence and the petitioners being women, the personal appearance of the petitioners before the trial Court is dispensed with and they should file an affidavit before the trial Court that whenever their presence is required, they would appear before the trial Court and they would not dispute the identity, during the trial.

9.In the result, the criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

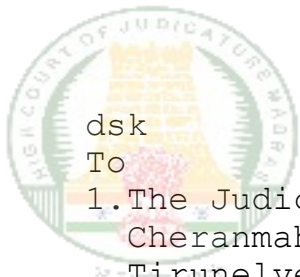
Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The Judicial Magistrate,
Cheranmahadevi,
Tirunelveli District.

2.The Inspector of Police,
Cheranmahadevi Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.RAJARAM, Advocate (SR-104916[F] dated 13/12/2019)

+1 CC to M/s.M/S.A.THIRUVADI KUMAR, Advocate (SR-105108[F]

Crl.O.P. (MD)No.6702 of 2017

13.12.2019

SMA/21/1/2020/3P/6C