



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2019

CORAM

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P(MD)No.83 of 2017

and

Crl.M.P(MD)Nos.64 and 65 of 2017

1.Parthipan

2.Karthiga

.. Petitioners / Accused Nos.1 and 2

Vs.

1.State Rep., by
The Inspector of Police,
Palanichettypatti Police Station,
Theni District.
(Crime No.435 of 2016)

.. Respondent No.1 / Complainant

2.Rajani

.. Respondent No.2 / De facto
Complainant

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records connected with the case in C.C.No.305 of 2016, on the file of the learned Judicial Magistrate, Theni, and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

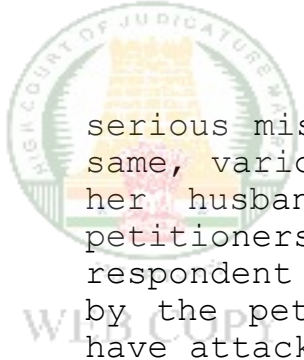
For Respondents : Mr.M.Chandrasekaran
Additional Public Prosecutor
For R1

For R2-No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.305 of 2016, on the file of the learned Judicial Magistrate, Theni.

2. The case of the prosecution is that the second petitioner is the daughter-in-law of the defacto complainant and the first petitioner is the father of the second petitioner. The second petitioner was married to the son of the defacto complainant in the year 2005 and they have a daughter from the said wedlock. There were



serious misunderstanding between the parties and as a result of the same, various proceedings are pending between the second petitioner, her husband and in-laws. In the meantime, on 05.07.2016, the petitioners are said to have entered into the house of the second respondent and abused her in filthy language and she was also beaten by the petitioners. That apart, the petitioners are also said to have attacked the husband of the defacto complainant.

3. Based on the complaint given by the defacto complainant, an FIR came to be registered on 05.07.2016 in Crime No.435/2016 for the offence under Sections 448, 294(b), 323 and 506(i) of IPC. On completion of the investigation, final report has been filed before the Court below and the same has been taken on file by the Court in C.C.No.305 of 2016, for the offence under Sections 448, 294(b), 323 and 506(i) of IPC.

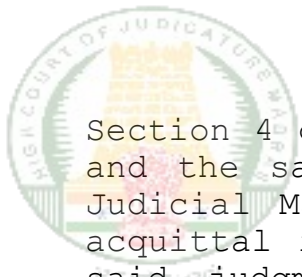
4. The learned counsel for the petitioners submitted that a false complaint has been given by the second respondent and the entire criminal proceedings is an abuse of process of Court. The learned counsel further submitted that malafides is manifest on the face of it, since a completely different version regarding the incident has been given in the 161(3) Cr.P.C., statement recorded from the defacto complainant. Eventhough, in the complaint, it is stated that the second respondent was attacked with wooden log; in the 161(3) Cr.P.C., statement, it is stated that she was attacked with hands. The learned counsel concluded his arguments by submitting that the matrimonial dispute between the parties is the main reason for the false complaint and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that there are prima facie materials to frame charges against the petitioners and the issues that have been raised by the petitioners are all factual in nature and the same requires appreciation of evidence and this Court cannot undertake that exercise in exercise of its jurisdiction under Section 482 of Cr.P.C.

6. Though the second respondent has been served with notice and her name has also been printed in the cause list, there is no appearance on behalf of the second respondent.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. It is seen from the records that there has been a prolonged dispute between the parties right from the year 2010 onwards. The second petitioner had given a complaint against her husband and in-laws for the offence under Sections 498(A) and 406 of IPC, r/w



Section 4 of the Tamilnadu Prohibition of Harassment of Women Act, and the same resulted in a full-fledged trial before the learned Judicial Magistrate, Theni, in C.C.No.150 of 2010 and it ended in acquittal in the year 2015. There is an appeal pending against the said judgment in Crl.A.No.29 of 2015. That apart, the second petitioner has also initiated proceedings under Section 125 of Cr.P.C., claiming for maintenance and she has also initiated proceedings under the Domestic Violence Act, and the same is pending in D.V.O.P.No.13 of 2016.

9. The specific case of the second respondent/defacto complainant in the complaint is that she was attacked with wooden log by the petitioners. During investigation, she has completely changed the version and has stated that she was attacked with hands by the petitioners. There is absolutely no explanation as to why the second respondent completely changed the stand with regard to the alleged occurrence. This change in stance creates a very serious doubt with regard to the very alleged occurrence. This is more so, due to the fact that there are pending matrimonial disputes between the parties.

10. In the considered view of this Court, the complaint itself is attended with malafides and it has been given only to settle scores between the parties. There is a very serious doubt with regard to the very occurrence itself and the second respondent/defacto complainant has attempted to give an exaggerated version of a small quarrel that has taken place between the parties, in view of the dispute between the parties. The continuation of the proceedings against the petitioners will amount an abuse of process of Court and therefore, the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

11. In the result, the proceedings in C.C.No.305 of 2016, on the file of the learned Judicial Magistrate, Theni, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Theni.



2. The Inspector of Police,
Palanichettypatti Police Station,
Theni District.

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

+1 CC to M/s.R. ALAGUMANI, Advocate (SR-85182[F] dated 04/09/2019)

CRL.O.P (MD) No.83 of 2017
03.09.2019

PJL

JMN(19.09.2019) 4P : 5C