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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM:

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD)No.17985 of 2019

and

Crl.M.P.(MD)Nos.10571 and 10572 of 2019

1.S. Saravanan
2. Vijayalakshmi : Petitioners/Accused Nos.1 & 2

Vs.

1.The State rep
The Sub Inspector of Police,
D-1, Thallakulam Police Station
Madurai
(Crime No.1285 of 2014) : Respondent/Complainant

2.S.Azhagar Raja : Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No. 900 of 2019 on the file of the Judicial Magistrate No.II, Madurai and quash the same.

For Petitioners : Mr.P.R.Prithviraj
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No. 900 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai.

2.The learned counsel appearing for the petitioners would submit that the petitioners and the defacto complainant are relatives. He would submit that the occurrence had taken place on 24.06.2014, but the defacto complainant himself was admitted in the hospital on 17.07.2014 and thereafter the complaint was registered only on 12.12.2014. He would also submit that the ingredients of offence under Section 325 of IPC would not attract as against the petitioners.

3. The learned Additional Public Prosecutor would submit that the defacto complainant being the brother of the first petitioner did not give complaint immediately. He would also submit that there are witnesses who have spoken about the accident and the first petitioner has assaulted the defacto complainant and caused injuries.

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4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance , on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in ***2001 (4) SCC 667.***

8.Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.II, Madurai

2. The Sub Inspector of Police,
D-1, Thallakulam Police Station
Madurai

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

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