

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Cr1.O.P.No.24539 of 2019

1.P.Elumalai
2.Santha
3.Lakshmi
4.Sumathi

..Petitioners

Vs.

1. The State Represented by its,
The Inspector of Police,
Arini Taluk Police Station,
Arini Taluk,
Thiruvannamalai District.

2. Kasturi

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in Crime No.802 of 2018 on the file of the first respondent and quash the same.

For Petitioners : No appearance

For Respondent 1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For Respondent 2 : Mrs.S.Sengkodi

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed seeking for the relief to quash the FIR which was registered in Crime No.802 of 2018 on the file of the first respondent as illegal.

2. In spite of repeated adjournment, there is no representation on the side of the petitioners. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mrs.S.Sengkodi, learned counsel appearing for the second respondent.

3. Admittedly, the petition mentioned FIR has been registered against the petitioners for the offence under section 294 (b) & 323 IPC. Today when the petition is came up for hearing, learned Additional Public Prosecutor appearing for the

first respondent on instructions would submit that during the time of investigation, section of law has been altered as 294 (b), 323 & 324 IPC and section 4 of Women Harassment Act.

4. In the said circumstances, on go through the averments found in the FIR, it discloses the fact that at the time of occurrence, due to previous enmity, the petitioners herein were attacked the second respondent and the petitioners herein pulled out the saree wore by the second respondent. Further by using the iron rod, attacked the second respondent on her right hand. The said averment discloses the fact that during the time of the occurrence, all the petitioners herein were committed offence which is cognizable in nature.

5. Therefore, the truthfulness of the said issue has to be decided during the time of investigation or Trial, since the same was based upon the factual aspect. In otherwise, there is no abuse of process of law in registering FIR. In the similar circumstances, while at the time of disposing CrI.A.No.255 of 2019 in the case of Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra and others, the Hon'ble Apex Court has held as follows:

"A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

6. Therefore applying the ratio laid down by the Hon'ble Apex Court, this case also falls under the category that the issue raised by the petitioners is a factual in nature and hence, the truthfulness of the same has to be decided at the time of trial and also the same is within the purview of the Trial Judge. Therefore, I am of the considered opinion that the petition filed by the petitioner is devoid of merits.

7. Thus, for the reasons stated above, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar

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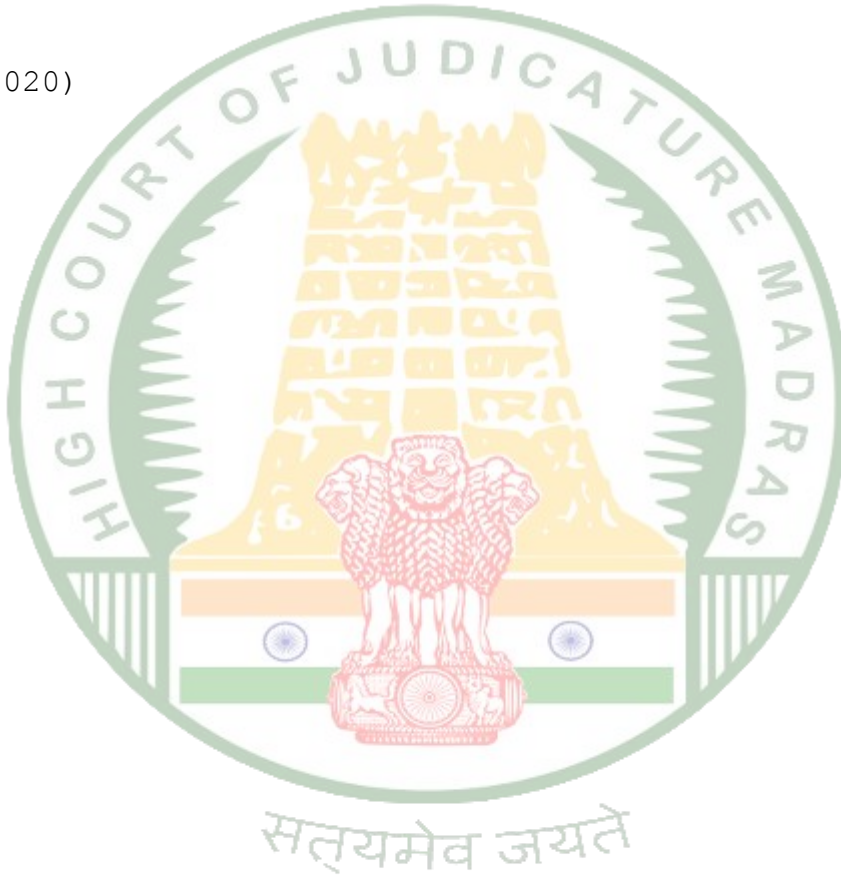
Sub Assistant Registrar

To

1. The Inspector of Police,
Arini Taluk Police Station,
Arini Taluk,
Thiruvannnamalai District.
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.24539 of 2019

SPD(CO)
RV(14/12/2020)



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