



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

CORAM:

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL OP(MD) No.13871 of 2020

and

Crl.M.P.(MD) Nos. 6362 & 6365 of 2020

1. Abraham Pitchaiah
2. Rathina Singh
3. Jeba Singh

... Petitioner/A-1 to A-3

Vs.

1. State rep by
Inspector of Police
Alangulam Police Station,
Tenkasi District.
(Crime No. 14 of 2017)

2. Swarnaraj

... Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the final report in P.R.C. No. 12 of 2019 on the file of the learned Judicial Magistrate, Alangulam, Tenkasi District and quash the same.

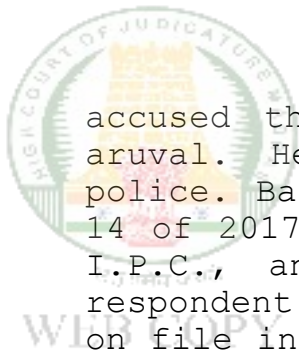
For Petitioners : Mr.C.Christopher

For R-1 : Ms.S.E.Veronica Vincent
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the final report in P.R.C. No. 12 of 2019 on the file of the learned Judicial Magistrate, Alangulam, Tenkasi District.

2. The learned counsel appearing for the petitioners reiterated the contentions set out in the original petition. The case of the prosecution is that on 18.01.2017 at about 11.00 a.m., all the accused came to the house of the defendant and abused the son of the defacto complainant by using filthy language and the 2nd accused beat the son of the defacto complainant on his cheek by using stick and 1st accused damaged roof tiles, electric meter box and switch box by using stick and the 3rd accused caused damage to the house of one ~~Devasubramanian~~ is neighbour of the defacto complainant and the 1st



accused threatened the defacto complainant and his son by using aruval. Hence, he preferred a complaint before the respondent police. Based on the complaint, a case was registered in Crime No. 14 of 2017 for the offence under Sections 294(b), 323 and 506(ii) I.P.C., and Section 3 of TNPPDL Act. After investigation, the respondent police had filed the final report and the same was taken on file in P.R.C.No. 12 of 2019 by the learned Judicial Magistrate, Alangulam. The present petition has been filed to quash the proceedings against the petitioners.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record. Since no adverse order is going to be passed, notice to the second respondent is not necessary.

4. The learned counsel appearing for the petitioners would state that the first petitioner who is aged about 71 years and the personal appearance of the first petitioner may be dispensed with.

5. The Hon'ble Supreme Court by judgment dated 02.12.2019 in ***Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another*** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

6. Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and therefore, I am not inclined to quash the final report. The grounds raised in this petition can be gone into only in a full-fledged trial.

7. Considering the age of the first petitioner, who is 71 years old his presence before the Court below is dispensed with, except when the learned Magistrate insists his appearance. Considering the facts and circumstance of the case, the learned Judicial Magistrate, Alangulam, is directed to dispose the case in P.R.C.No. 12 of 2019, within a period of six months from the date of receipt of a copy of this order.



8. With the above direction, this Criminal Original Petition stands dismissed. Consequently, CMP(MD) No.6365 of 2020 is allowed and CMP(MD) No.6362 of 2020 is closed.

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Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:-

1. The Judicial Magistrate, Alangulam.
2. The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

KSA

TE : 11/02/2021 : 3P/5C

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