



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.12813 of 2016

and

Crl MP(MD)Nos.6026 and 6077 of 2016

1.Rajesh

2.Manoharan

3.Appavu Nadar

4.Sudharsan

5.Nagarajan

... Petitioners / Accused

Vs.

Kannan @ Ramalingam

... Respondent/ Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and to quash the private complaint in C.C No.7 of 2015 on the file of the Judicial Magistrate No.III, Nagercoil as against the petitioners.

For Petitioners : Mr.G.Anto Prince

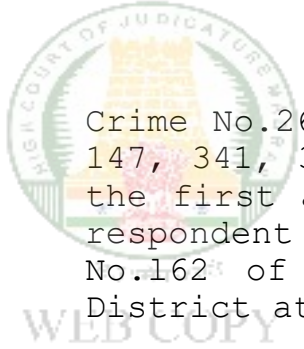
For Respondent : Mr.G.Thalaimutharasu

ORDER

Heard the learned counsel on either side.

2.This criminal original petition has been filed for quashing the impugned private complaint filed by the respondent herein in C.C No.7 of 2015 on the file of the Judicial Magistrate No.III, Nagercoil for the offences under Sections 147, 294(b), 341, 323 & 307 of IPC. The case of the respondent is that on 10.09.2008 at about 3.45 P.M, the petitioners herein attacked the respondent and caused him serious injuries leading to his hospitalization. According to the respondent, he lodged a complaint before Anjugramam Police Station in this regard and the same was registered as Crime No.264 of 2008. But, the investigation was not done properly and the matter got closed as "Mistake of Fact". Therefore, filing of the present impugned private complaint became necessary. The court below took cognizance of the offence and the case was taken on file as C.C No.7 of 2015.

3.The learned counsel for the petitioners pointed out that the petitioners along with the father of the first petitioner, namely, Narayanan Nadar, were returning home on 10.09.2008 at about 03.45 P.M and all the petitioners sustained serious injuries. The father of the first petitioner Narayanan Nadar died on the spot. Therefore,



Crime No.263 of 2008 was registered for the offences under Sections 147, 341, 307, 323 and 302 IPC. The respondent herein was shown as the first accused in the said case. It was charge sheeted and the respondent was finally convicted under Section 304(II) IPC in S.C No.162 of 2009 on the file of the Sessions Judge, Kanyakumari District at Nagercoil vide judgment dated 28.03.2018.

4.The specific case of the petitioners is that the case on hand was given more as a counter blast and to bolster the defence in the murder trial. This criminal original petition came to be filed in the year 2016. The respondent suffered conviction in the year 2018. The contentions projected by the petitioners herein have thus been vindicated by the subsequent events. I, therefore, come to the conclusion that the very institution of the impugned private complaint is vitiated by malafides. The impugned complaint can only be characterized as an abuse of legal process. In this view of the matter, the impugned complaint stands quashed.

5.The criminal original petition stands allowed. Connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Skm

To

1.The Judicial Magistrate No.III, Nagercoil.

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