



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P. (MD) .No.16522 of 2016

and

Crl.M.P. (MD) .Nos.8105 and 8106 of 2016

1.Balamurugan
2.Sudhakaran
3.Thualasiram
4.Rajasekar
5.Chinnasamy
6.Manikandan

...Petitioners/Accused No.1 to 6

Vs.

P.Thennarasu

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.34 of 2016 on the file of the District Munsif Cum Judicial Magistrate, Bodinayakanur and quash the same.

For Petitioners : No appearance

For Respondent : Mr.T.Lajapathi Roy

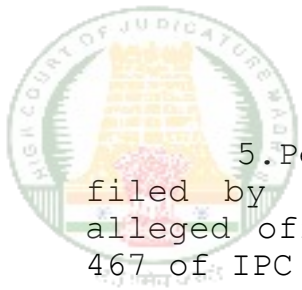
O R D E R

This petition is filed under Section 482 of Cr.P.C., to quash the criminal proceedings in C.C.No.34 of 2016 on the file of the District Munsif Cum Judicial Magistrate, Bodinayakanur.

2.There is no representation for the petitioners.

3.The learned counsel who filed memo on behalf of the petitioners has withdrawn his appearance.

4.The learned counsel appearing for the respondent is present



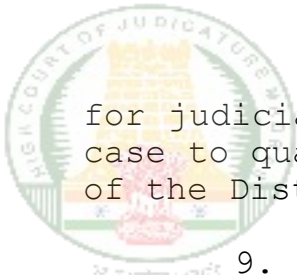
5.Perused the petition filed to quash the private complaint filed by the respondent herein against the petitioners for the alleged offences under Sections 294(b), 323, 342, 506(ii), 406 and 467 of IPC r/w Section 34 of IPC.

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6.The brief facts of the case is that one Maheswari, W/O Dhillip Kumar, has given a complaint against two unknown persons alleging that when she was away from her house, two persons broke open the house and trespassed into the house and picked quarrel with her using filthy language and abusing her caste. They were in a drunken mood and misbehaved with her, hence, a case was registered in Crime No.310 of 2015 under Sections 448, 294(b), 506(i) of IPC and Section 4 of PWH Act, r/w Section 4 (1) (j) of TNP Act. Based on the complaint of Maheswari, Devaram police station has arrested the respondent and his friend viz., Kumaran and remanded to judicial custody on 20.08.2015. At the time of remand, the gold chain, silver waist chain and Titanic watch of the respondent and his friend, were taken by the petitioners herein. After the respondent and his friend got bail, went to the police station and demanded back the articles and cash taken from them. The petitioners/ police refused to give back the articles and instead of Rs.7,160/- taken from them, they gave Rs.2,160/- to the respondent and Rs.20,720/- taken from Kumaran, they have returned only Rs.720/-, when they demanded balance amount and gold jewels, the petitioners threatened them and chased them away. Alleging that they were arrested in Crime No.310 of 2015 and kept in the police custody illegally, subjected them to physical torture and foisted false case against them for the offences under Sections 448, 294(b), 506(i) of IPC and other offences. Further, they failed to return back gold chain and currency of Rs.5,000/-, which was entrusted to them before the remanding to the Judicial Custody. Private complaint is filed against the petitioners.

7.The petitioners being arrayed as Accused No.1 to 6 in this private complaint, facts of which is narrated above are before this Court seeking to quash the complaint on the ground that they registered case against the respondent in Crime No.310 of 2015 based on the complaint given by one Maheswari and it is in the discharge of statutory duty they arrested the respondent and his friend. As far as allegation of assault and using of filthy words against the respondent, it is imaginary and flimsy story invented by the respondent. The magistrate has taken cognizance of the private complaint without applying her mind and without any basis and hence, it has to be quashed.

8.A perusal of the private complaint reveals that at the time of remand, injuries were noted on the body of the respondent. This provides prima facie evidence that there was custodial torture. There are prima facie material to show that there was physical



for judicial custody in Crime No.310 of 2015. Hence, it is not fit case to quash the complaint in C.C.No.34 of 2016 pending on the file of the District Munsif Cum Judicial Magistrate, Bodinayakanur.

9. Accordingly, this criminal original petition is dismissed. Consequently, the connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To

The District Munsif Cum
Judicial Magistrate,
Bodinayakanur.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-11564[F] dated
13/03/2020)

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SM/14.05.2020/3P-3C