



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.24801/2016 & Crl.MP.Nos.11954,11955/2016

[Video Conferencing]

1.D.K.Elango

2.Babu

... Petitioners/Accused 1 & 2

Versus

1.State

Deputy Superintendent of
Police Dharapuram.

2.Murugan

... Respondents/Complainant/Defacto Complainant

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in P.R.C.No.17/2016 on the file of the Judicial Magistrate, Dharapuram and quash the proceedings.

For Petitioners : Ms.M.G.Rajeswari
for Mr.T.V.Vinkeeth Kumar

For R1 : Mr.E.Raj Thilak
Additional Public Prosecutor

For R2 : No appearance

ORDER

- (1) The present petition has been filed in the year 2016, seeking to call for the records in PRC No.17/2016 pending on the file of the Court of the Judicial Magistrate at Dharapuram and to quash the same.
- (2) A complaint had been lodged resulting in registration of FIR in Crime No.325/2016 on 15.04.2016 under Sections 294 [b], 323, 324, 506[ii] IPC and also under sections 3[1][r],



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3[1][s] and 3[2][va] of the Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Amendment Ordinance, 2014. Pursuant to investigation over the allegations in the said FIR, a Final Report had also been filed before the competent Magistrate Court/Judicial Magistrate at Dharapuram, which had been assigned number PRC.No.17/2016.

- (3) The learned Judicial Magistrate now has to commit the case for trial by a Sessions Court since offences involved, could be tried exclusively by the Sessions Court. At that stage, the present petition has been filed.
- (4) This petition had been pending before this Court for the past five years. I should add a note of apology for its pendency. By this time, the learned Magistrate would have definitely committed the matter and the Sessions trial would have been concluded. Neither the petitioners nor the defacto complainant know about the direction in which the original complaint based on which, the FIR had been registered would go.
- (5) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent police.
- (6) The learned counsel for the petitioner stated that yet another petition had been filed with respect to the investigation which has been conducted. That petition is not before this Court.
- (7) Arguments on the facts have not been advanced.
- (8) A perusal of the records shows that the petitioners claim that the complaint is a false one and it had been filed owing to the 1st petitioner having taken steps to protect his interest. A further perusal shows that on 15.04.2016, at around 8.30 a.m., the petitioners herein are said to have abused the 2nd respondent herein/defacto complainant using his caste name. When one of the witnesses intervened, the 2nd petitioner herein had also abused him again using the caste name and additionally, hitting the said witness on his head. Both the 2nd respondent herein/defacto complainant and the said witness suffered injuries. Further, there is also an allegation that the petitioners had stated that two persons, viz., the 2nd respondent herein/defacto complainant and the witness, would be killed if they do not leave the premises immediately.
- (9) These are all facts which will have to be tested during the



course of trial.

(10) Let the 2nd respondent herein/defacto complainant come and depose evidence about this particular incident. Let the witness who actually saw the incident also depose before the Court. Let statements recorded during the course of evidence be tested during cross-examination. Thereafter, the learned Judge may give a considered finding on analysis of evidence. The matter cannot be kept in abeyance any further.

(11) In the result, the Criminal Original Petition stands dismissed directing both the petitioners to go before the Trial Court and face trial and test the statements of the witnesses before the Trial Court.

(12) I am confident that more sufficient opportunity would be given for that particular purpose during the course of trial. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Judicial Magistrate,
Dharapuram.
2. The Deputy Superintendent of
Police Dharapuram.
3. The Public Prosecutor
High Court, Madras.

Crl.OP.No.24801/2016

NMI (CO)
CT(12/10/2021)