

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.O.P.No.9765 of 2018
and
Crl.M.P.Nos.5015 & 5016 of 2018**

1.Vedagiri
2.Baskar
3.Tamil Arasan

.. Petitioners

Vs.

1. The State rep. by
The Sub Inspector of Police,
J10, Semmancherry Police Station,
Chennai.
Crime No.1684 of 2017

2. Veerakumar

.. Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., to call for the entire records in C.C.No.33 of 2018 on the file of the learned Judicial Magistrate, Alandur and quash the same.

For Petitioners : Mr.B.Kumarasamy

For Respondents : Mr.C.E.Pratap
Public Prosecutor

ORDER

The petitioners have filed this petition seeking to call for the entire records in C.C.No.33 of 2018, on the file of the learned Judicial Magistrate, Alandur and quash the same.

2. The petitioners are A1 to A3 in Cr.No.1684 of 2017 which has been registered against them for the offences under Section 343 and 352 IPC. The case of the prosecution is that on 26.05.2017, the 2nd respondent, who working as a Manager in a small finance bank, came to stay in Mapel hostel after completing his work. There was a property dispute between the lease holder of the hostel building, viz., the petitioners and the land owner of the said Hostel and the 2nd respondent, being a close relative to the land owner of the said hostel, the petitioners tied the 2nd respondent to a Coconut tree situated at the vacant side adjacent to the Hostel premises and caused simple injury on his head and stomach. Therefore, the 2nd respondent has lodged a police complaint and Charge Sheet was filed in C.C.No.33 of 2018, before the Lower Court. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioners submitted that the 2nd respondent has preferred the police complaint in collusion with the land owner only to harass the petitioners. Further, the learned counsel has drawn the attention of this Court to Section 343 IPC, whereby it is contemplated that whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

4. It is submitted by the counsel for the petitioners that in the present case, it is alleged that the 2nd respondent has been tied and assaulted. However there is no particular allegation as to the confinement of the person for three days or more and therefore, the ingredients of Section 343 IPC is not attracted. Further, the offence u/s 352 IPC is also not made out as even according to the prosecution the injury was the result of a quarrel between the petitioners and the land owner and only in the heat of quarrel, due to sudden provocation, the occurrence had taken place. It is the case of the petitioners that they are falsely implicated in this case and prays for quashment of the impugned order.

5. Though the above grounds have been raised by the learned counsel for the petitioner, however, this Court is of the opinion the issue is a triable issue and the grounds raised by the counsel for the petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

6. It is represented by the learned counsel appearing for the petitioners that this Court may issue a direction to the Trial Court to expedite the trial and complete the same as early as possible. He would further submit that the appearance of the petitioners before the Trial Court may be dispensed with.

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7. Accordingly, this petition is disposed of directing the trial court to dispose of C.C. No.33/2018 as expeditiously as possible as per seniority of the case. The petitioners and respondent are directed to co-

operate with the trial court for the early completion of trial. Further, taking into consideration the request as made by the learned counsel for the petitioner, his appearance before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Consequently, connected miscellaneous petitions, if any, are closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1. The Sub Inspector of Police,
J10, Semmancherry Police Station,
Chennai.
2. The Judicial Magistrate, Alandur.
3. The Public Prosecutor,
High Court of Madras, Chennai 600 104.

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M.DHANDAPANI,J.
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