

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN.,J

CRL.O.P.No.9350 of 2016 and
CrI.M.P.Nos. 10894 & 4809 of 2016

1. D.Jayapandian
2. J.Prabhu Shankar
3. J.Pradeep

... Petitioners/Accused 1 to 3

Versus

1. The State rep. By
The Inspector of Police,
V-6, Kolathur Police Station,
Chennai 600 082.

... Respondent /
Complainant

2. M.Siluvairathinam @ Siluvainathan

... Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.847 of 2016 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai 8.

For Petitioner : Mr.T.S.N.Prabhakaran

For Respondents : Mr.E.Raj Thilak
Government Advocate
(Crl. Side) for R1
Mr.V.S.Dixit for R2

ORDER

This Criminal Original petition has been filed seeking to quash the proceedings in C.C.No.847 of 2016 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai 8.

2. The case of the prosecution is that the petitioners are the father and brothers of one Praveena. The marriage between said praveena and one Mr.Mathew Charles was solemnized on 13.05.2013. Mathew Charles and his father Siluvairathinam, who is the defacto complainant herein are said to have demanded dowry from the said praveena and also brutally assaulted and made to starve for several days. As a result

of which, the petitioners were entered into the house of the defacto complaint and assaulted Mathew Charles and his cousin Gladson. The defacto complaint gave a complaint before the respondent police. An FIR came to be registered in Crime No.531 of 2015 for the alleged offence under Section 294(B), 506 (ii) of IPC, further it has been altered to Section 448, 294(b), 324, 326 and 506(ii) of IPC. After investigation, a charge sheet was filed before the X Metropolitan Magistrate, Egmore. The case was taken on file in C.C.No.847 of 2016. Challenging the said proceedings, the petitioners filed this Criminal Original petition seeking to quash the same.

3. The learned counsel for the petitioners submitted that 1st and 2nd petitioners have already died. The learned counsel further submitted that the incident is said to have taken place on 17.04.2014 but the complaint was lodged belatedly on 26.05.2015 i.e after one year. Even though, the accident register

was received by the respondent police on 17.04.2014, they registered the FIR only on 26.05.2015. The learned counsel further submitted that absolutely there is no material or evidence to attract Section 326 of IPC and only to escape from C.C.No.15167 of 2014, which is a case taken on file by the learned Judicial Magistrate concerned on the basis of the complaint lodged by the petitioner against the defacto complainant and his relatives end on wrecking vengeance, this case has been falsely foisted against these petitioners. The learned counsel for the petitioner further submits that there is no specific overt act as against the 3rd petitioner.

4. Mr.E.Raj Thilak, learned Government Advocate (Crl. Side) for 1st respondent on instructions submitted even the 161 of Cr.PC statement recorded from the witnesses reveals that the accused persons had attacked the defacto complainant's son and his grand son. The learned Government Advocate submitted that

the case is still pending at the stage of trial and therefore, prays for dismissal of this Criminal Original petition.

5. This Court has carefully considered the submissions made on either side and also perused the materials placed on record.

6. Since it has been reported before this Court that the petitioners 1 and 2 had already died, the proceedings insofar as the petitioners 1 and 2 are dismissed as abated. On perusal of the records, it is seen that petitioners and the defacto complainant are relatives and there is a family dispute between them and It is also seen from the final report that there are no specific overt act made against the present petitioner, who has been arrayed as A-3. The reading of the statement recorded by the Investigating Officer under Section 161 of Cr.P.C., reveals the fact that the

petitioners came into the house of the defacto complainant and attacked the defacto complainant's son and his grand son. There is no materials to show that this petitioner/A3 was a part of the unlawful assembly, who had attacked them. Therefore, this Court is inclined to quash the proceedings in C.C.No.847 of 2016 pending on the file of the learned X Metropolitan Magistrate, Egmore, Chennai 8 and accordingly, the same stands quashed. This criminal Original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

22.06.2021

Index: Yes/No
Internet: Yes/No
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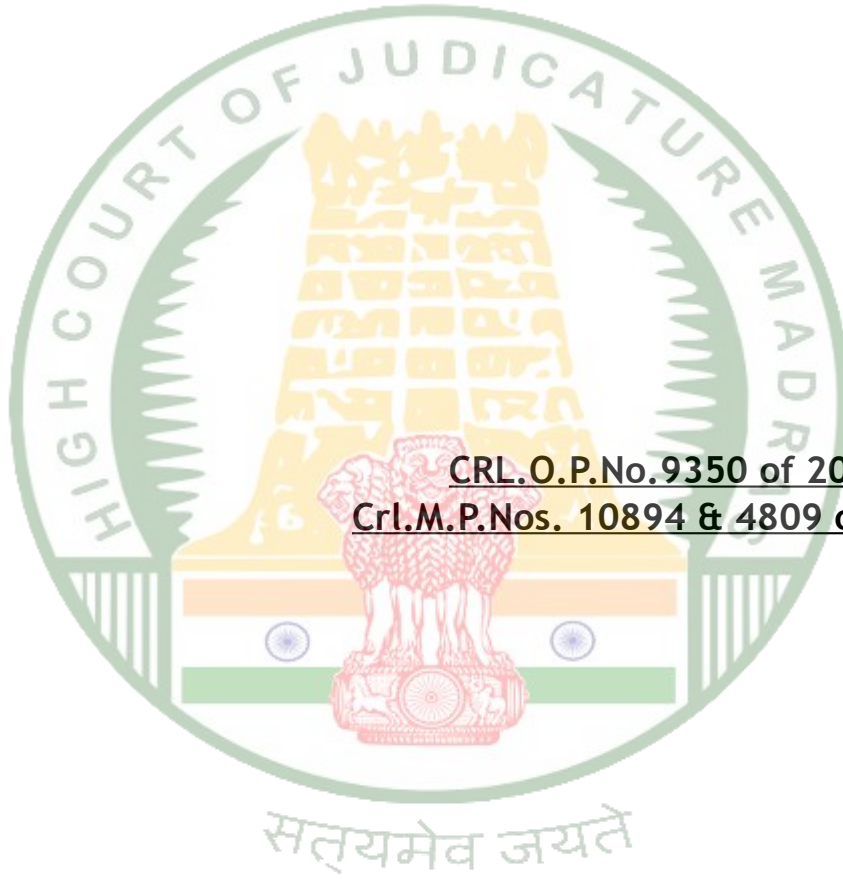
1. The learned X Metropolitan Magistrate, Egmore, Chennai 8
2. The State rep. By
The Inspector of Police,
V-6, Kolathur Police Station,
Chennai 600 082.
3. The Public Prosecutor,
High Court, Madras.



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