

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.21192 of 2014

1. A.Lakshmanan,
S/o. Arumugapillai

2. V.L.Nehru,
S/o. A.Lakshmanan

3. Vanaja,
W/o. Lakshmanan

... Petitioners

Vs.

1. The State Rep. by
The Sub-Inspector of Police,
D-1, Gingee Police Station,
Villupuram District.
Crime No.209 of 2010

2. Dharanidharan,
S/o. Appupillai

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to impugned charge sheet vide No.147 of 2010 dated 01.11.2010 on the file of 1st respondent police station, pending on the file of the Judicial Magistrate, Gingee, Villupuram District, in C.C.No.31 of 2011 on the file of the learned Judicial Magistrate, Gingee, Villupuram District and quash the same.

For Petitioners : Mr.Prakash Adiapadam

For R-1 : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl.Side)

For R-2 : Mr.C.Prakasam (No appearance)

O R D E R

(The case has been heard through video conference)

The Criminal Original petition has been filed seeking to call for the records relating to impugned charge sheet vide
<https://hcservices.ecourts.gov.in/hcservices/>

No.147 of 2010 dated 01.11.2010 on the file of 1st respondent police station in C.C.No.31 of 2011 on the file of the learned Judicial Magistrate, Gingee, Villupuram District.

2. The case of the prosecution as per the defacto complainant/2nd respondent viz., Dharanidharan is that on 25.04.2010, the people belonging to the Yadhava Community had conducted Yadhava Convention at Thirunelveli and that the defacto complainant/2nd respondent had taken 12 persons under his leadership in her rank out of which 9 persons belonging to the group of the accused and 3 persons belonging to his group. The accused group had not paid any donation to convention and that the entire expenses was borne out by the defacto complainant/2nd respondent and on the next day, the defacto complainant/2nd respondent had asked the other parties to bear their expenses. After the convention was over, 1st accused came to the defacto complainant/2nd respondent asked him to show the accounts and it was refused by the defacto complainant/2nd respondent stating that the accused did not given any contribution and thereby, he do not have any right to ask the accounts. While so, on 29.04.2010 at about 08.15 a.m., when the defacto complainant/2nd respondent was returning from Agriculture Well which is at the back side of his house, after taking bath 1st and 2nd petitioners came there and the 2nd petitioner abused the defacto complainant/2nd respondent with filthy language and gave slap on his cheeks. Thereafter, the defacto complainant/2nd respondent had tried to escape from the spot by his two wheeler, 1st and 2nd petitioners followed him and entered in to his house with cricket stump where the 2nd petitioner had attacked the mother of the defacto complainant/2nd respondent with cricket stump on her head. On seeing such incident, the defacto complainant/2nd respondent father Appupillai had attempted to intervene at that time, 1st petitioner had again attacked the defacto complainant/2nd respondent with cricket stump on his hand and 3rd petitioner also came to the place of occurrence had abused the defacto complainant/2nd respondent and his parents with filthy language and thereby, the case has been registered.

3. The respondent after completing investigation has filed the final report in C.C.No.31 of 2011, on the file of the learned Judicial Magistrate, Gingee.

4. The learned counsel for the petitioner would submit that the complaint has been initiated due to previous enmity and the complaint has been malafidely made against these petitioners for ulterior motive to wreck vengeance on the petitioners, since earlier on 29.04.2010, the third petitioner had preferred the complaint against the defacto complainant/2nd respondent and his parents based on which, a case in Crime No.208 of 2010 was registered against them for the offences under Sections 294, 323, 324 & 506(ii) of IPC. He would further submit that there had been a grave delay of 6 days in

lodging the FIR and thereby, would seek to quash the proceedings pending against the petitioners.

5. The learned Government Advocate (Crl.Side) would vehemently oppose stating that though it is a case in counter, the respondent's have fairly conducted investigation and the complaint given by 3rd petitioner has been referred as mistake of fact. He would further submit that 1st and 2nd petitioners have assaulted the father and mother of the defacto complainant/2nd respondent with cricket stump and they have sustained injuries and they were treated by the doctors and the fact is supported by the medical evidence. Further, the specific allegation against 3rd respondent is that she abused the defacto complainant/2nd respondent with filthy language. He would further submit that the petitioners have not raised any legal grounds for quashing the proceedings and the entire grounds raised are factual in nature which can only be decided by letting any evidence at the time of trial.

6. Heard the learned counsel on either side and perused the materials placed on record.

7. On perusal of records shows that there is a prima facie materials against the petitioners.

8. In Central Bureau of Investigation Vs. Arvind Khanna reported in (2019) 10 SCC 686, the Hon'ble Apex Court has held that the High Court while deciding a petitioner under Section 482 Cr.P.C., for quashment cannot look into and record a finding on disputed facts and that the defence of the accused can be tested on after appreciating the evidence during trial.

9. In view of the above, this Criminal Original Petition stands dismissed. However, direction is issued to the learned Trial Judge to complete the trial as expeditiously as possible preferably within a period of 4 months from the date of receipt of a copy of this order.

10. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Civil Judge (Junior Division)
Gingee.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Sub-Inspector of Police,
D-1, Gingee Police Station,
Villupuram District.

3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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SM/22/02/2021

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