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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.21138 of 2017

&

Crl.M.P.Nos.12482 and 12483 of 2017

1. Krishnan
2. Govindammal ... Petitioners/Accused 1&2

Versus

1. The State rep. By
Inspector of Police,
Anaicut Police Station,
Vellore District. ...1st Respondent/Complainant
2. Rajagopal ...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.388 of 2016 on the file of the learned Judicial Magistrate No.V, Vellore and quash the same.

For Petitioners: Mr.E.Kannadasan

For Respondents: Mr.S.Vinoth Kumar- R1
Government Advocate (Crl.Side)
No appearance - R2

O R D E R

The present Criminal Original Petition is filed to call for the records in C.C.No.388 of 2016 on the file of the learned Judicial Magistrate No.V, Vellore and quash the final report filed against the petitioners under Sections 294(b), 324 and 506 (i) of IPC.

2. It is the contention of the learned counsel for the petitioners that the entire case is a result of a false case and there is a counter case registered against the 2nd respondent / defacto complainant in Crime No.83 of 2015 for the offences under Sections 294(b), 324 and 506(ii) of IPC, which is taken on file in C.C.No.387 of 2016 by the same learned magistrate and the same is pending.



3. Heard Mr.E.Kannadasan, learned counsel for the petitioners and Mr.S.Vinoth Kumar, learned Government Advocate (Crl.Side) for 1st respondent. Though notice was ordered to the 2nd respondent as early as on 09.10.2017, served on the 2nd respondent on 01.11.2017 and his name being printed in the cause-list, there is no representation on behalf of the 2nd respondent, either in-person or through learned counsel.

4. It is well settled that case and counter case registered due to the same occurrence, should be tried simultaneously by the same learned Magistrate. In such view of the matter, both the cases, viz., C.C.Nos.388 of 2016 and 387 of 2016 shall be disposed of by the same learned Magistrate, viz., learned Judicial Magistrate No.V, Vellore simultaneously.

5. Accordingly, considering the nature of charges, particularly with regard to the causing of physical injury on the witnesses, this Court is not inclined to quash the entire proceedings, hence the present Criminal Original Petition is dismissed. However, the personal appearance of the petitioners are dispensed with, except for receiving the copies under Section 207 of Cr.P.C., questioning under Section 313 of Cr.P.C., and on any other date, that may be fixed by the trial court. Consequently, connected miscellaneous petition, viz., Crl.M.P.No.12482 of 2017 is closed and Crl.M.P.No.12483 of 2017 is ordered.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Judicial Magistrate No.V,
Vellore.
2. -do through- The Chief Judicial Magistrate,
Vellore.
3. The Inspector of Police,
Roshanai Police Station,
Tindivanam Taluk,
Villupuram District.



4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.64537

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NSK 22/12/2021