

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21548 of 2017
and Crl.MP.Nos.12665 & 12666 of 2017

1. Indira Priyatharshini @ Priyatharshini
2. Subramaniyan ...Petitioners

Vs.

1. The Sub Inspector of Police,
Tiruvonnainallur Police Station,
Ulundurpet Taluk,
Villupuram District.
Crime No.138 of 2017

2. Chenbagadevi ...Respondents

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in STC.No.131 of 2017 on the file of the learned Judicial Magistrate-II, Ulundurpet and quash the same.

For Petitioners	: Mr.R.Ganesh Kumar	
For Respondents	: Mr.M.Mohamed Riyaz,	R1
	Additional Public Prosecutor	
	Mr.K.Sudhakar	R2

ORDER

This petition has been filed to quash the proceedings in STC.No.131 of 2017 on the file of the learned Judicial Magistrate-II, Ulundurpet.

2. The case of the prosecution is that there was a prior dispute between the accused persons and the husband of the second respondent. On 04.03.2017 at about 12.00 hours, the accused persons are said to have barged into the house of the second respondent and abused all the family members and also attacked them, A complaint was given on both sides as a case in counter and it was registered in Crime Nos.137 and 138 of 2017. On investigation, since the Investigating Officer was not able to find out the aggressor, final report was filed in both the cases and the same has been taken on file in S.T.C.Nos.131 and 132 of 2017, by the Court below. The present petition has been filed to quash the proceedings in STC.No.131 of 2017.

3. Heard Mr.R.Ganesh Kumar, learned counsel for the petitioner, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent Police and Mr.K.Sudhakar, learned counsel for the second respondent.

4. On going through the records and after considering the submissions made on either side, it is seen that there are several factual issues which will require a finding only on appreciation of evidence. Even the investigating Officer was not able to come to a conclusion as to who was the aggressor in the present case. Therefore, the final report was filed in both the FIRs' and the Court below has taken cognizance of both the final reports.

5. In view of the above, the Court below will have to conduct the proceedings in both the cases in S.T.C.Nos.131 and 132 of 2017 in accordance with the guidelines issued in the judgment of the Hon'ble Supreme Court in Nathilal Vs.State of Uthar pradesh reported in 1990 SCC Cr1. 638. Useful reference can also be made to the judgment of this Court in Ganesan Vs. State of Tamil Nadu reported in 2011 (5) CTC 747 (Page 33 to 34). The issues raised by either side are factual in nature. Therefore, this Court does not want to give any finding to any of the issues and it is left open to the parties to raise the same before the Court below and the same will be considered on its own merits and in accordance with law.

6. The learned counsel for the petitioners requested for dispensing with the appearance of the first petitioner. Taking into consideration the facts and circumstances of the case, the presence of the first petitioner is dispensed with and she shall be represented by a counsel before the Court below. The counsel representing the first petitioner shall cross examine the witnesses on the same day and and they are examined in chief, and the first petitioner shall not dispute the identity of any witnesses. The first petitioner shall be present before the Court below at the time of questioning under Section 313 of Cr.P.C. and at the time of passing the final judgment.

7. In the result, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C Nos.131 & 132 of 2017 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate-II, Ulundurpet

2.The Chief Judicial Magistrate, Villupuram.

3.The Sub Inspector of Police,
Tiruvonnainallur Police Station,
Ulundurpet Taluk,
Villupuram District.

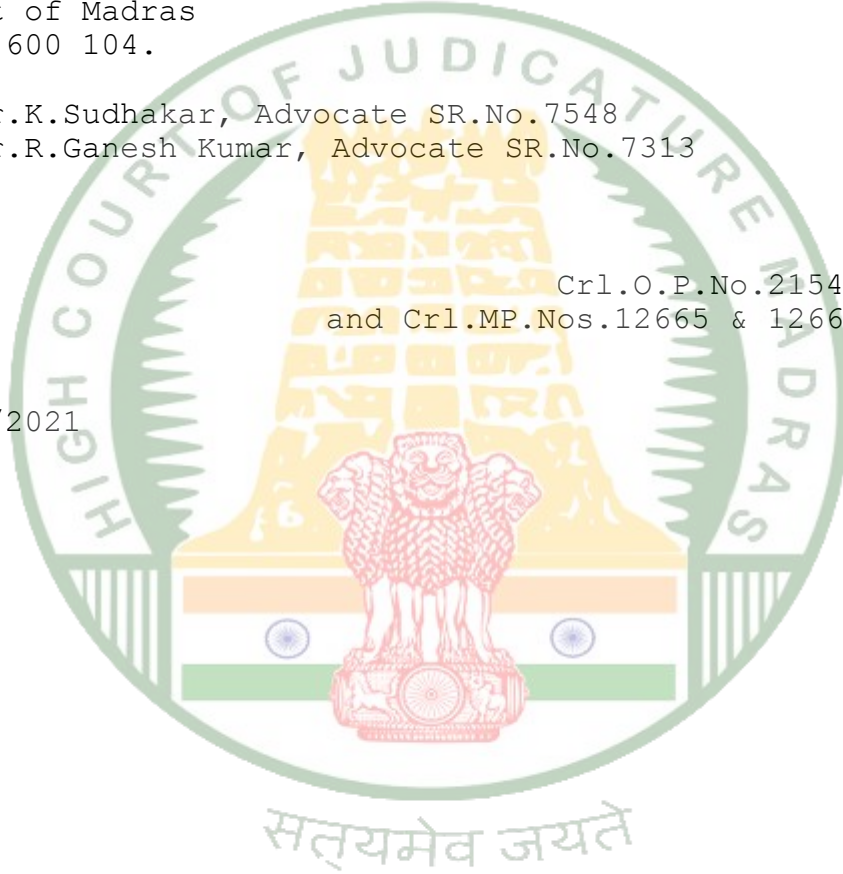
4.The Public Prosecutor
High Court of Madras
Chennai - 600 104.

+1cc to Mr.K.Sudhakar, Advocate SR.No.7548

+1cc to Mr.R.Ganesh Kumar, Advocate SR.No.7313

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