



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM :

THE HONOURABLE **Mrs.JUSTICE R.THARANI**

Crl.O.P.(MD)No.3665 of 2021

and

Crl.M.P.(MD)No.2032 and 2033 of 2021

1.Durai @ Thurai

2.Jeyaram @ Jayaraman ...Petitioners/Accused 6 & 12
/Vs./

1.State represented by

The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.

(Crime No.106 of 2016) ... 1st Respondent/Complainant

2.Chellanadar

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.60 of 2020 on the file of the learned Judicial Magistrate, Eraniel and quash the same as illegal in respect of the petitioners.

For Petitioners : Mr.G.Anto Prince

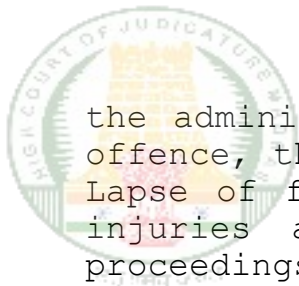
For Respondents : Mr.A.Robinson

Government Advocate(CRL SIDE)

ORDER

The petition is filed to quash the proceedings in C.C.No.60 of 2020 on the file of the learned Judicial Magistrate, Eraniel.

2.On the side of the petitioners, it is stated that a case in Crime No.106 of 2016 was registered against the petitioners and other accused, under Sections 147, 294(b), 323, 506(ii) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 and subsequently, the case was altered into Sections 147, 294(b), 323, 506(ii) and 427 of IPC. There are totally 13 accused involved in this case. The petitioners are A6, who is a driver and A12, who is a student. PW1 to PW4 were office bearers of the temple festival committee. There was some small quarrel between witnesses and the accused. The case of the prosecution is that the accused damaged 37 tubelights worth Rs.800/- and all of them caused injuries to the victims. There is no specific overt act against each of the accused. If petty quarrel regarding



the administration of the temple committee was taken as a criminal offence, there is no legal nexus between A6 and A10 and the offence. Lapse of five years for taking cognizance itself is wrong and the injuries are simple in nature and the petitioners prayed the proceedings to be quashed.

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3. On the side of the respondents, it is stated that the offence under Section 506 (ii) of IPC is punishable for seven years and hence 468 Cr.P.C., is not applicable. As per Section 147 of IPC, all the persons, who involved in an offence are liable for the offences of the others also. There are four persons injured and the respondents prayed this petition to be dismissed.

4. The offence under Section 506(ii) of IPC is mentioned in the final report filed before the Judicial Magistrate, Eraniel. Whether the petitioners are having any nexus to such offence or not cannot be decided at this stage. Involvement of the petitioners in the offence can be decided only after completion of the trial. Under such circumstances, there is nothing to interfere in the criminal proceedings. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate, Eraniel.

2. The Inspector of Police,
Mandaikadu Police Station,
Kanyakumari District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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