



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Cr1.OP(MD)No.22771 of 2016

and

Cr1.MP(MD)Nos.11926 & 11927 of 2016

WEB COPY

1.Ramarajan

2.Subisaran

3.Ayappan : Petitioners/Accused 1 to 3
Vs.

1.State rep. by
The Inspector of Police,
Eraniel Police Station,
Kanyakumari District. :1st Respondent/Complainant

2.Sujitha :2nd Respondents/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the case in C.C.No.263 of 2016 on the file of the Judicial Magistrate, Eraniel, Kanyakumari District and quash the same.

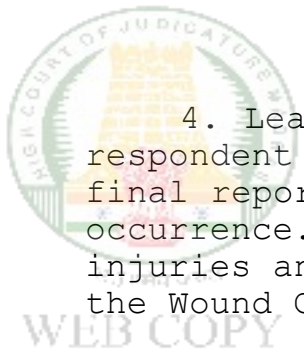
For Petitioners : Mr.K.Guhan
For Respondents : Mr.R.Anandharaj,
Additional Public Prosecutor for R.1

ORDER

This criminal original petition is filed by the petitioners as against the proceedings pending against them in C.C.No.263 of 2016 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District.

2. It appears that there is a civil dispute between the parties, in which, the petitioners are said to have intimidated the second respondent / defacto complainant and also caused injuries coercing her to withdraw the civil suit filed against the petitioners.

3. Learned Counsel appearing for the petitioners submitted that on the date of occurrence, the first petitioner was working in the agricultural field of one Mahadevan, the second petitioner was at Madurai and the third petitioner was working as Salesman in Jos Alukkas jewelry shop at Madurai. He further submitted that it is the defacto complainant, who intimidated the first petitioner on 07.09.2015 when he was working in the agricultural field, for which, the first petitioner has lodged a complaint as against the defacto complainant and her family members on 07.09.2015.



4. Learned Additional Public Prosecutor appearing for the first respondent Police submitted that after conducting the investigation, final report has been filed and there are three eye witnesses to the occurrence. He further submitted that the victim has sustained injuries and LW6-Dr.Shanthi, who treated the victim, has also issued the Wound Certificate, which forms part of the final report.

5. This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

6. The main grounds urged by the petitioners are alibi and on the counter complaint lodged as against the defacto complainant. Alibi cannot be a ground for quashing the final report pending against the petitioners, as this Court cannot conduct a roving enquiry by invoking the inherent powers under Section 482 Cr.P.C. Similarly, if the petitioners have lodged any complaint as against the defacto complainant, then it can very well be used by them before the trial Court to establish their case. Therefore, on the grounds raised by the petitioners, this Court is not inclined to quash the impugned proceedings and accordingly, this criminal original petition is dismissed. The petitioners are at liberty to raise all the grounds raised in this petition before the trial Court.

7. At this juncture, learned Counsel appearing for the petitioners submitted that the first petitioner is aged about 70 years and also suffering from several ailments and it is very difficult for him to appear before the trial Court in each and every hearings. Considering the aforesaid plea, the trial Court shall dispense with the personal appearance of the first petitioner alone, provided he files an undertaking affidavit ensuring his appearance as and when required by the concerned Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate,Eraniel, Kanyakumari District.

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

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