



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :01.09.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CrL.O.P. (MD) .No.15969 of 2018

and

CrL.M.P(MD) Nos. 7083 & 7084 of 2018

1. J.Jelastin

2.R.Raja

... Petitioners/Accused No 1&2

-vs-

1. State Represented by

The Sub - Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.

(Crime No.86 of 2018)

... Respondent/ Complainant

2. Mr.Maria Thadheu Greates

... Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel in Crime No. 86 of 2017 dated 24.06.2017 on the file of the Respondent No.1 Police for alleged offences U/s. 294(b), 323 and 506(ii) of I.P.C and quash the same as illegal.

For Petitioners : Mr.T.Thirumurugan

For - R1 : Mr.S.Antony Sahaya Prabahar

Government Advocate (CrL.Side)

For - R2 : No Appearance

O R D E R

This Criminal Original Petition is filed to call for the records pertaining to the Charge Sheet in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel in Crime No. 86 of 2017 dated 24.06.2017 on the file of the first respondent police for alleged offences U/s. 294(b), 323 and 506(ii) of I.P.C and quash the same as illegal.

2.The brief facts of the case are as follows:

The defacto complainant namely Maria Thadheu Greates had lodged a complaint before the first respondent on 24.06.2017 alleging that on 23.06.2017 at about 11.00 p.m, when he installed a flex board in



a village festival, the petitioners opposed the same had abused him and attacked him and the witness namely Raja, S/o.Lakshmanan with hand. Subsequently, both of them had threatened the defacto complainant with dire consequences. On the basis of said complaint, a criminal case has been registered against the petitioners on 24.06.2017 in Crime No.86 of 2017 for the offences U/s. 294(b), 323 and 506(i) of Indian Penal Code. On completion of investigation, a charge has been laid against the petitioners in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel for offences U/s 294(b), 323 and 506(ii) of I.P.C. Hence, the petitioners have filed this Crimingl Original Petition seeking to quash the charge sheet filed in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel.

3. The learned counsel for the petitioners would state that the entire case of the prosecution is false. The petitioners never involved in any such offence as alleged by the prosecution. On the date of occurrence ie., on 23.06.20217, a village festival was conducted and on that day, the defacto complainant and others tried to install a political party's flex, which was opposed by some of the persons in the locality and the petitioners never involved in the occurrence. However, the petitioners were falsely implicated in this case only because they were educated persons.

4. The learned counsel for the petitioners would specifically state that even as per the First Information Report, there is no weapon used by the petitioners and it is alleged that the first petitioner had attacked the defacto complaint by hand and the second petitioner attacked a witness namely one Raja, S/o.Lakshmanan by hand. The learned counsel has specifically stated that the defacto complainant, got himself admitted in the hospital and thereafter, ran away from the hospital without any intimation and therefore, when the wound certificate was claimed from the Doctor, the Doctor has specifically stated that since the defacto complainant had voluntarily left the hospital without taking any treatment, no wound certificate was given.

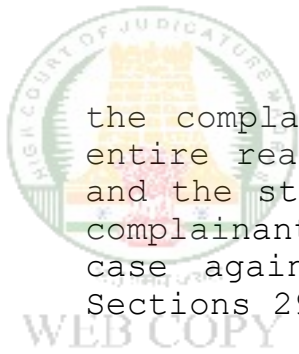
5. There is no appearance on behalf of the second respondent.

6. Mr.E.Antony Sahaya Prabahar, learned Government Advocate appearing for the Government Advocate(Crl. Side) on instructions would submit that the Doctor, who treated the defacto complainant was examined as P.W.7 and had stated that since the defacto complainant had left the hospital, no wound certificate was given.

7. Heard the learned counsel for the petitioners as well as the learned Government Advocate appearing for the State.

8. The statement of P.W.7/Doctor clearly shows that the defacto complainant has left the hospital without any informantion, which

<https://hcservices.com/docs/hcservices>



the complaint of the second respondent is doubtful. Further, the entire reading of First Information Report as well as charge sheet and the statements under Section 161(3) of Cr.P.C., by the defacto complainant and other witnesses, does not make out a *prima facie* case against the petitioners and none of the ingredients under Sections 294(b), 323 and 506(ii) is attracted.

9. Admittedly, from the evidence of Doctor, it is seen that there is no treatment taken by the defacto complainant and even after the statement by the Doctor, it is not known on what basis, the Sections were altered from 506(i) of I.P.C to 506(ii) of I.P.C and charge sheet was laid. The entire allegations made in First Information Report on the whole would not constitute any offence as held by the Honourable Supreme Court in the case in ***State of Haryana and Others vs. CH. Bhajanlal and Others*** reported in ***AIR 1992 SC 604***.

10. In view of the above, in my considered opinion, the case has been registered without application of mind and hence, I have no hesitation to quash the charge sheet filed in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel.

11. Accordingly, the Criminal Original Petition is allowed and the charge sheet filed in C.C.No.129 of 2018 on the file of the learned Judicial Magistrate, Eraniel, is hereby quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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 Sub Inspector of Police,
Vellichanthai Police Station, Kanyakumari District.



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

+1 CC to M/s.L.THIRUMURUGAN, Advocate (SR-27930[F] dated
02/09/2021)

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