



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.O.P.(MD)No.16550 of 2019

1.Balasubramani
2.Yogeshwaran @ Logeshvararaj
3.Vijayaraghavan : Petitioners/A2 to A4

Vs.

1.The Inspector of Police,
Batalgundu Police Station,
Dindigul District.
(Crime No.41 of 2018) : 1st Respondent/Complainant

2.M.Nagarajan,
Sub Inspector of Police,
Batalagundu,
Dindigul District. : R2/De-facto Complainant

3.Bala Dhandapani : 3rd Respondent/A1

Prayer: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to FIR in Crime No.41 of 2018 pending on the file of the 1st respondent police and quash the same against the Petitioners.

For Petitioners : M/s.J.Padhmavathi Devi

For R1 and R2 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

For 3rd Respondent : Mr.V.S.Kishok Kumar

O R D E R

This petition is filed seeking quashment of the case in Crime No.41 of 2018 on the file of the 1st respondent police.

2.The case of the prosecution in brief:-

Suo motu FIR has been registered by the first respondent police stating that the first accused Bala Dhandapani, who is the 3rd respondent herein gave a complaint before the 2nd respondent. Similarly the 2nd accused Balasubramani, who is the first petitioner herein has also given a complaint before the 2nd respondent police.



Both the complaints have been enquired and on the basis of the allegations made in the complaint and in the counter case, FIR in Crime No.41 of 2018 was registered under section 160 IPC by setting out the following facts.

3.A1/Bala Dhandapani and A2/Balasubramani are brothers. A3/Vijayaraghavan is the son of A2. So also, A4 is the son of A2. A2 Balasubramani stated in the complaint that they are four in number born to their parents and the last brother Bala Dhandapani, who is A1 herein is in possession and enjoyment of the family properties. So over the property issue, frequent quarrel took place among them. On 24.01.2018 at about 07.30 am, the said Bala Dhandapani was found cutting and removing coconut fruits. When that was objected, Bala Dhandapani assaulted the de-facto complainant with aruval and caused injury. He was also criminally intimidated. Similarly, Bala Dhandapani has given a complaint stating that totally there are seven in number born to their parents. The brother namely Balasubramani occupied the shop and the house. In order to grab the property, he made several assaults. On 24.01.2018, Balasubramani assaulted him with iron rod and also criminally intimidated. Similarly on the earlier occasion, A3/Yogeshwaran @ Logeshvararaj and A4/Vijayaraghvan damaged the drainage water pipe connection. They have also mixed poison in the water. Both the complaints have been registered under section 160 IPC and the investigation is under process. Pending investigation, seeking quashment of FIR, the petitioners/A2 to A4 filed this petition.

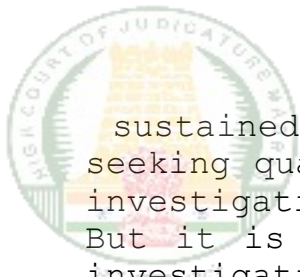
4.Heard both sides.

5.During the course of argument, a suggestion was made by this court that since this is the property dispute between the brothers, an amicable settlement can be reached through mediation process. But the petitioners are not willing for compromise. So also the 3rd respondent/A1 herein.

6.Now the contention on the part of the petitioners is that 3rd petitioner is a Law Student and has been falsely roped in the occurrence. But whatever may be, it is a fit case for the parties to settle the issue.

7.The learned counsel appearing for the 2nd respondent/de-facto complainant by producing the photos stated that he was brutally attacked by the petitioners and suffered serious injury also. The 3rd respondent/A1 has also stated the same in the complaint that he was brutally attacked with aruval by the accused persons. No doubt, he has also sustained injuries. There is a counter complaint to the effect that the 3rd respondent also attacked the first petitioner.

8.It appears that quarrel took place between them when the 3rd respondent was cutting and removing coconut fruits in the family property. When this was objected by other side, it appears that quarrel arose between them, as a result of which, both



sustained injuries. So one of the parties approached this court seeking quashment of the FIR. While the 3rd respondent insisted, the investigation is permitted to go on, since he has suffered injury. But it is a case of 160 IPC. If the trial court is permitted the investigation to go on and the trial is conducted, either win end in acquittal of both the accused persons or conviction. There is no question of acquitting some of the persons from the offence. This is a case of affray. The only point brought by the petitioners is that the occurrence took place on 24.01.2018. Now more than 3 years lapsed. Final report was not filed before the concerned court. Hence, it is barred by section 468 Cr.P.C. The learned counsel appearing for the 3rd respondent submitted that limitation will not apply, in the above circumstance, it will attract only with regard to setting the law in motion. But already law was set in motion. So there is question of limitation, this contention cannot be accepted. The offence under section 160 IPC is punishable upto one month or fine upto Rs.1,000/- or both.

9.As per section 468 Cr.P.C, the limitation for taking cognizance is one year. Since three years have lapsed and the final report has not been filed before the concerned court, it is clearly barred by limitation.

10.The learned counsel appearing for the petitioners would further submit that ingredients of section 160 IPC is not attracted. But however, it is barred by limitation and the other factual aspects need not be gone into.

11.In view of the above, this Criminal Original Petition stands **allowed**. The FIR in Crime No.41 of 2018 pending on the file of the 1st respondent is quashed as cognizance is barred by limitation.

Sd/-

Assistant Registrar (CS-III)

// 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 Inspector of Police,
<https://hcservices.ecourts.gov.in/hcservices/>
Batalgundu Police Station,
Dindigul District.



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

+1 CC to M/s.J. PADHMAVATIDEVI, Advocate (SR-34891[F] dated
17/11/2021)

Cr1.O.P.(MD)No.16550 of 2019
17.11.2021

RD (26.11.2021) 4P 4C