



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 17.02.2021

DATE ON WHICH PRONOUNCED : 12.3.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVA

Crl.O.P.(MD)No.11397 of 2017

and

Crl MP(MD)Nos. 7820 & 7821 of 2017

WEB COPY

1.Murugesan
2.Chandrasekar @ Sekar
3.Sandran

... Petitioner/Accused No.1 to 3
Vs.

1.The Inspector of Police,
Town Police Station,
Srivilliputhur,
Virudhunagar District.
(Crime No.950 of 2016)

... 1st Respondent/Complainant

2.Arokyamary

... 2nd Respondent/Defacto Complainant

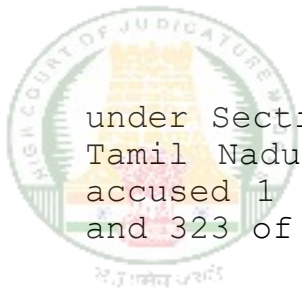
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings in C.C.No.47 of 2017 on the file of the learned Judicial Magistrate No.II, Sriviliputhur.

For Petitioners	:	Mr.R.Niresk Kumar
For R1	:	Mr.M.Ganesan, Government Advocate (Crl.Side)
For R2	:	Mr.R.Alagurani

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.47 of 2017, on the file of the learned Judicial Magistrate No.II, Sriviliputhur.

2. Case of the prosecution before the Trial Court as per the final report filed by the first respondent is, on 01.12.2016, when the defacto complainant, who is the second respondent herein, was in her house with her son namely, Paraloharaja, due to previous enmity, the accused namely, Murugesan, Chandrasekar @ Sekar and Sandran, trespassed into her house dragged the defacto complainant and her son and assaulted them with their legs and caused simple injuries. When it was questioned by her son namely, Paraloharaja, they abused the defacto complainant in filthy language and pulled her saree and they threatened that they will kill their family members and thereafter, three accused assaulted the defacto complainant and her son with sticks and thereby, they committed the offences punishable



under Sections 448, 323, 294 (b) and 506 (i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, by the accused 1 to 3 and the third accused is charged under Sections 448 and 323 of IPC.

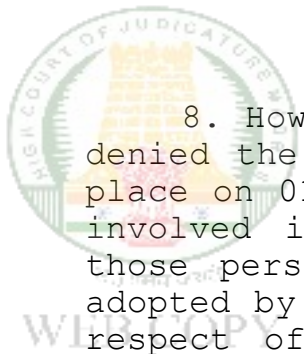
WEB COPY 3. On the basis of the complaint given by the defacto complainant, the first respondent took up the investigation and examined the witnesses. Finally, he filed a final report, against these accused, as stated supra.

4. For quashing the final report, this petition is filed by the petitioners, mainly on the ground that in respect of the very same occurrence, a private complaint in C.C.No.47 of 2017 was filed by the second respondent against these petitioners before the learned Judicial Magistrate No.II, Srivilliputhur. In that complaint, the second respondent had included the wife of the second petitioner as one of the respondent. In the private complaint, in para number 5, she has stated that the complaint registered in Crime No.950 of 2017 was not her complaint and so, the charge sheet filed in C.C.No.47 of 2017, on the file of the learned Judicial Magistrate No.II, Srivilliputhur, must be quashed as it is a clear abuse of process of the Court.

5. The question which arises for consideration is (i) **whether in the light of the alleged statement made by the second respondent in the private complaint filed in respect of the same cause of action?** (ii) **Whether the C.C.No.47 of 2017 pending on the file of the Trial Court is liable to be quashed?**

6. In para 5 of the complaint, the second respondent has stated that in respect of the occurrence, took place on 01.12.2016, at about 3.30 p.m, all the accused persons mentioned in the private complaint, trespassed into her house and assaulted her and also her son. As mentioned earlier, after investigation, the first respondent has found that only three persons were involved in the occurrence and the names of the other two accused persons were deleted as per the alteration report filed by him, dated 02.12.2016.

7. She has further stated in the complaint, when she informed the occurrence, the Sub Inspector of Police, who was present in the Police Station, obtained her signature in a white paper and taking sides with the third and fourth respondents in the complaint had falsely registered a case. So, according to the petitioners, this relevant portion, falsifies the occurrence, said to have taken in the final report filed by the first respondent, in this case and so, it is liable to be quashed.



8. However, the fact remains that the second respondent has not denied the occurrence in the private complaint, said to have taken place on 01.12.2016. But, according to her, three more persons were involved in the occurrence and the police has purposely omitted those persons, while filing the final report. Whether the Course adopted by the second respondent in filing the private complaint in respect of the very same occurrence without availing the proper remedy at the time of the trial by invoking Section 319 of Cr.P.C is a matter to be decided by the Trial Court.

9. Moreover, as per the final report, the son of the second respondent is alleged to have sustained simple injuries. So, sufficient materials are also available for proceeding further and it may not be proper, for this Court to quash the final report at this stage, on the basis of the allegations made by the second respondent in the private complaint. The veracity of her statement in the First Information Report and in the private complaint got to be decided only during trial. So, the grounds mentioned in the petition cannot be taken into consideration.

10. Further contention, on the part of the petitioners is that the second respondent was admitted in the hospital on 02.12.2016, at about 4.00 p.m. She has stated to the Doctor that she was assaulted by unknown persons, at about 04.30 p.m. So, according to the learned counsel for the petitioners no offence is made out against the petitioners.

11. But, the veracity of this information alleged to have been given by the second respondent to the Doctor, can only be decided, at the time of Trial. On the basis of these documents, no quashment can be entertained. So, this argument is rejected.

12. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

<https://hdc.mysorecourts.gov.in/hdcservices/>



To

1.The Judicial Magistrate No.II,
Sriviliputhur.

2.The Inspector of Police,
Town Police Station,
Srivilliputhur,
Virudhunagar District.

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

Crl.O.P. (MD) No.11397 of 2017
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SE (CO)
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