



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 01.04.2021**

**DELIVERED ON : 21.05.2021**

WEB COPY

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.ILANGO VAN**

**Crl.O.P. (MD)No.11996 of 2017**

**CRL.M.P. (MD) .No.8253 & 8254 of 2017**

1.P.Selvakumar

2.P.Libin Kumar

3.P.Jeyakumar

4.P.Rajan

5.Jeyaseelan

... Petitioners

Vs.

P.Praveen

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Private Complaint in C.C.No.08 of 2017 pending before the learned Judicial Magistrate No.1, Kuzhithurai dated 25.06.2015 for the offence under Sections 147, 148, 341, 323, 324 and 506(ii) of the Indian Penal Code and quash the same.

For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mr.N.Kamesh  
(Legal Aid Counsel)

**O R D E R**

This petition has been filed seeking quashment of C.C.No.8 of 2017, pending on the file of the learned Judicial Magistrate No.1, Kuzhithurai.

2. The case of the prosecution is that the respondent has filed a private complaint before the trial Court with the following allegations. All the accused persons are brothers among themselves and also neighbours. The first petitioner was working as the Head of the Sports Club and the respondent/complainant was working as a Treasurer. During that time, the first petitioner misappropriated money which was questioned by the respondent/complainant, due to which a quarrel arose between the first petitioner and the



respondent. Thereafter, on 10.03.2015 at about 9.15 p.m., when the defacto complainant and his friends namely Sujinraj and Jabin went for bath, the above said accused persons came in front of them, preventing them to go and assaulted the complainant with hand and deadly weapons. The accused Nos.1 to 4 caused injury to the respondent on the left hand knee portion with iron rod. The fifth accused assaulted him with hands on various parts of his body. Further, they have threatened the friends of the complainant also. One Chandran and others, on seeing the incident, came to the scene of occurrence. But, the accused persons ran away from the place of the occurrence. Thereafter, the complainant was admitted in Kulithurai Government Hospital and later, he was shifted to the Government Hospital, Asaripalayam. Even though an intimation was sent to the Police for recording statement, till date, no action was taken. Thereafter, he filed a private complaint before the learned Judicial Magistrate No.1, Kuzhithurai.

3. Seeking quashment of the private complaint, all the accused persons have preferred this petition mainly on the ground that the complaint given by the respondent was registered in Crime No.181 of 2015 on 28.09.2020 and later, it was closed as mistake of fact. Thereafter, the first petitioner has given a complaint against the respondent which was also registered in Crime No.179 of 2015 for the offence punishable under Sections 447, 294(b), 427, 506(ii) IPC. Regarding the alleged incident took place on 19.05.2015, there was no complaint given by the respondent. So, as a counter blast, the respondent has given a complaint which was registered in Crime No.181 of 2015 and later, it was closed as mistake of fact.

4. Heard both sides.

5. Even though notice was served to the respondent, there is no representation for the respondent. Therefore, the Legal Aid Counsel was appointed by this Court and he argued the matter on behalf of the respondent.

6. On perusal of the documents, it is seen that when the first petitioner was working as the Head of the Sports Club, he alleged to have misappropriated the sports club money and it was questioned by the complainant, since he was working as Treasurer. Due to which, a quarrel arose between the petitioners and the respondent.

7. According to the respondent, the alleged incident took place due to previous enmity. The complaint given by the complainant was registered in Crime No.181 of 2015 by Marthandam Police and after investigation, it came to light that there was a wordy quarrel between the respondent and the accused on 26.03.2015. So, over that incident, Selvakumar, who is the first petitioner herein, left the place stating that he was going to give a complaint. In order to overcome that complaint, one person taken to the hospital by



the respondent and the said person took treatment as out-patient. But, no complaint was given by the respondent herein.

8. The respondent has also filed a complaint which is pending in C.M.P.No.986 of 2016 over the alleged incident that took place on 26.03.2015 at about 8.15 p.m., wherein the allegation has been made against four accused persons stating that they caused injury to the respondent and others. So, that incident is not connected with the present incident which allegedly took place on 10.03.2015.

9. On 28.03.2015, at about 01.00 p.m., the respondent and his brothers namely Selvin, Edwin trespassed into the compound wall of the first petitioner and abused him in filthy language and also damaged the electric light in that area. Based upon the complaint given by the first petitioner, a case in Crime No.179 of 2015 was registered for the offence punishable under Sections 447, 294(b), 427, 506(ii) of IPC. But the Investigating Officer came to the conclusion that a false complaint has been lodged on 28.03.2015 by the respondent, due to previous enmity. Therefore, it was closed as mistake of fact as noted above.

10. Subsequent to that, a private complaint has been filed by the respondent stating that on 10.03.2015, at about 9.15 p.m., the present incident took place. According to the petitioner, this is only a counter blast to the case in Crime No.179 of 2015. Along with the private complaint, a wound certificate of the respondent has also been filed before the Trial Court. As per the Wound Certificate, it is found that the complainant informed the Medical Officer, Kulithurai that he was assaulted by known persons. On the same day, he was referred to the Government Hospital, Asaripalayam for further treatment. Further, he was admitted in hospital on 11.03.2015 and discharged on 12.03.2015. As per the Doctor's opinion, the injuries were found to be simple in nature. Further, it is seen from the records that a *prima facie* material has been placed by the respondent before the trial Court regarding the injuries and the incident. The contention on the part of the petitioners that it is a counter blast cannot be accepted at this stage. When the injuries were found and the respondent was taken to the hospital, whether the incident really took place as mentioned by the respondent or not is a matter of fact. These disputed facts cannot be gone into this petition. So, this Court do not find any merit in this petition. Since the private complaint was filed in the year 2017, there shall be a direction to the Trial Court to conclude the trial process within a period of five months from the date of receipt of a copy of this Order and the compliance report must be submitted to the Registry.



11. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

ssb

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

The Judicial Magistrate No.1, Kuzhithurai.

CrI.O.P. (MD)No.11996 of 2017  
21.05.2021

KB (02.07.2021) 4P 2C