



Crl.O.P.No.23290 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.23290 of 2022
and Crl.M.P.Nos.14874 and 14875 of 2022

1.K.Rajaguru
2.K.Haribabu

...Petitioners

Vs.

1.State rep by:
The Inspector of Police
AWPS-Villupuram
Villupuram.

2.Mrs.Sathya

...Respondents

Prayer :Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the Proceedings in C.C.No.38 of 2020 pending before the Judicial Magistrate - Additional Mahila Court at Villupuram and quash the same.

For Petitioners : Mr.S.Suresh

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor



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ORDER

WEB COPY This Criminal Original Petition has been filed to quash the Proceedings in C.C.No.38 of 2020 for the offences punishable under Sections 498(A), 294(b), 323, 427 and 506 (2) IPC and Section 4 of Dowry Prohibition Act pending before the Judicial Magistrate Additional Mahila Court at Villupuram.

2.The learned counsel for the petitioner submitted that the Petitioners are A2 and A3 in C.C.No.38 of 2020 on the file of the learned Judicial Magistrate Additional Mahila Court at Villupuram. They are the brothers of Defacto complainant's husband. On the alleged date 16.04.2017, the petitioners have not went to the house of the defacto complainant and not assaulted as stated by the complainant. He further submitted that there is no medical report in support of injuries sustained by the defacto complainant and thereafter, any material to implicate the petitioners in this proceedings. Hence, the criminal proceedings have to be quashed.



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3.The learned Additional Public Prosecutor submitted that there is a specific overtact attributed against the petitioners by the Defacto-complainant. According to the complainant, the petitioners assaulted the Defacto-complainant on her stomach with stick. He further submitted that the defacto complainant, in her 161 statement stated about the overtact against these petitioners and before the trial Court alone she has to prove the truth by letting evidence. Further, he objected to quash the criminal proceedings against these petitioners.

4.I have heard the learned counsel appearing for the petitioners, as well as the learned Additional Public Prosecutor appearing for the respondents.

5.On perusal of the records, it reveals the facts that the petitioners are A2 and A3 in C.C.No.38 of 2020 on the file of Judicial Magistrate Additional Mahila Court Villupuram. There is a family dispute between the defacto complainant viz.Mrs.Sathya, and the petitioners' family. Pursuant to the family dispute, the alleged occurrence took place on 16.04.2017 at



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about 07.30 p.m.

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6. According, to the prosecution, the petitioners along with others assaulted the Defacto-complainant with stone and stick and also abused in filthy language and thereby, she sustained injuries. Therefore, the case has been registered.

7. Though the learned counsel for the petitioners disputed the presence of the petitioners at the house of the Defacto-complainant on 16.04.2017, the disputed facts cannot be adjudicated while exercising powers under Section 482 of IPC. It is inappropriate to quash the case before the commencement of trial. Therefore, it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604), M/s.Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA RANI Vs. SURAJ KUMAR & ANR (1985 CrL.L.J.817)***, the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning



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stage. Therefore, I find no merit and investigation is to be conducted to find out the truth.

8. Accordingly, the Criminal Original Petition is dismissed.

Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
dk

To

1. Judicial Magistrate,
Additional Mahila Court
Villupuram.

2. The Inspector of Police
AWPS-Villupuram,
Villupuram.

3. The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

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