



CrI.O.P.(MD) No.9515 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P(MD)No.9515 of 2021

and

CrI.M.P(MD)Nos.4861 and 4862 of 2021

1.T.Manoj
2.T.Mugesh
3.M.Babu
4.T.Boongothai

...Petitioners

vs.

1.State through
The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

2.T.Jeya Kumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the case in C.C.No.422 of 2020 pending before the learned Judicial Magistrate Court, Vallioor, Tirunelveli District in Cr.No.479 of 2019 on the file of the first Respondent, ie., the Inspector of Police, Panagudi Police Station, Tirunelveli District and to quash all the further proceedings as against the Petitioners.



CrI.O.P.(MD) No.9515 of 2021

For Petitioners	:Mr.K.Ramanathan
For R1	:Mr.R.Sivakumar
	Government Advocate
For R2	:Mr.Ponkarthikeyan

ORDER

The Petitioners have filed this Petition seeking to quash the charge sheet in C.C.No.422 of 2020 pending before the Court of learned Judicial Magistrate, Vallioor, Tirunelveli District.

2.It is the case of the Petitioners that they were arrayed as accused in Cr.No.479 of 2019 on the file of the first Respondent. The complaint preferred by the Petitioners was closed as mistake of fact. Instead of investigating both the cases and filing two charge sheets, the Investigation Officer had acted partially and dropped the investigation against the accused in the complaint preferred by the Petitioners, whereas, the case registered against the Petitioners in Cr.No.479 of 2019 was investigated and final report was laid, which was taken cognizance by the learned Judicial Magistrate, Vallioor, for the offence under Sections 294(b), 323, 324 and 506(2) IPC. Further, it is the contention of the learned Counsel for the Petitioners that the Petitioners and the rival parties, who suffered injury, were treated in the same hospital. They have undergone treatment as in-patients.



CrI.O.P.(MD) No.9515 of 2021

While so, the Petitioners' complaint was ignored. Therefore, he seeks to quash the final report, which is taken cognizance and numbered as C.C.No.422 of 2020. Further, the learned Counsel for the Petitioners submitted that the Doctor had not been examined as a witness and cited as a witness in the final report filed in C.C.No.422 of 2020.

3.The learned Government Advocate appearing for the first Respondent submitted that the wound certificate issued by the Duty Medical Officer of Aasaripallam Government Medical College Hospital had been taken by the Investigation Officer while laying final report before the Court of learned Judicial Magistrate, Vallioor. Further, the learned Government Advocate submitted that the Trial Court has power to summon any witness with regard to the trial in the criminal case. Therefore, the Trial Court has the power to summon the Doctor, who had issued the wound certificate to the victims in this case. At the same time, on that ground, the Petitioners cannot seek quashing of the final report taken on file as C.C.No.422 of 2020.

4.The learned Counsel for the Second Respondent submitted that due to the conduct of the Petitioners only, the victim had suffered head injury, particularly, using machete on the head of the De-facto



Crl.O.P.(MD) No.9515 of 2021

Complainant/second Respondent. Further, he submitted that as per the final report laid by the Investigation Officer in this case, all the four Petitioners herein had caused injuries, where separate overt acts had been attributed to each of the Petitioners. Since the complaint preferred by the Petitioners is found without any basis, the Investigation Officer had found to be false and therefore, closed it as mistake of fact. If the Petitioners are aggrieved, the Petitioners shall approach the Court of learned Judicial Magistrate by filing a Protest Petition. On that ground, the Petitioners could not seek quashment of the charge sheet in C.C.No.422 of 2020.

5.Considering the submissions of the learned Counsel for the Petitioners, the learned Counsel for the second Respondent and the learned Government Advocate, this Petition cannot be allowed. The Petitioner is granted opportunity to file Protest Petition before the learned Judicial Magistrate, Vallioor. The learned Judicial Magistrate, Vallioor, is directed to consider the Protest Petition filed by the Petitioners herein regarding the further action dropped or regarding the charge sheet filed on the complaint of the Petitioners herein against the aggressors of the Petitioners herein, which was closed as mistake of fact by the Investigation Officer.



CrI.O.P.(MD) No.9515 of 2021

6.The learned Judicial Magistrate, Vallioor, is directed to grant sufficient time for the Petitioners herein to file Protest Petition. After passing appropriate orders on the Protest Petition, the trial in C.C.No.422 of 2022 can be taken for trial and both cases shall be disposed of simultaneously. If any of the accused in C.C.No.422 of 2020 filed any petition seeking exemption from appearance, the learned Judicial Magistrate, Vallioor can pass appropriate orders. Also, the learned Judicial Magistrate, Vallioor shall ensure that the accused in both cases appear regularly. If any of the accused in both cases does not cooperate with the Court, the learned Judicial Magistrate can act as per the reported judgment of Honourable Supreme Court in the case of ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***, thereby, cancelling the bail and detaining the accused in the case till the disposal of the case.

Index:Yes/No

10.10.2022

cmr

To

1.The Judicial Magistrate, Vallioor and Tirunelveli District.

2.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

5/6



WEB COPY



Crl.O.P.(MD) No.9515 of 2021

SATHI KUMAR SUKUMARA KURUP, J.

cmr

CRL.O.P(MD)No.9515 of 2021

10.10.2022