



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:13/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.18967 of 2019

and

Crl.MP(MD)Nos.11126 and 11127 of 2019

1.R.Narayanan

2.R.Petchimuthu

: Petitioners/A1 & A2

Vs.

1.The Sub Inspector of Police,
Seithur Police Station,
Virudhunagar District,
(Crime No.185 of 2019)

: R1/Complainant

2.Bose

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in CC No.362 of 2019 on the file of the Judicial Magistrate, Rajapalayam and quash the same.

For Petitioner : Mr.J.Selvam

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)

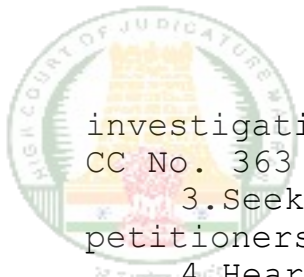
For 2nd Respondent : Mr.R.Nireshkumar

O R D E R

The petition has been filed seeking quashment of the case in CC No.362 of 2019 on the file of the Judicial Magistrate, Rajapalayam.

2.The case of the prosecution in brief:-

There was previous enmity with regard to dispute between the accused and the de-facto complainant. On 09/08/2019 at about 7.30 pm, when the de-facto complaint went to the tea shop, the accused persons abused him in filthy language, slapped on his right ear and also criminally intimidated him. Based upon the complaint given by the de-facto complaint, a case in Crime No.185 of 2019 was registered for the offences punishable under sections 294(b), 323 and 506(ii) IPC and after completing the formalities of



investigation, final report was filed and it was taken cognizance in CC No. 363 of 2019 by the Judicial Magistrate, Rajapalayam.

3. Seeking quashment of the same, this petition is filed by the petitioners.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would submit that section 323 IPC may not be attracted in the light of the allegation that has been made in the FIR. According to him, absolutely, there is no injury caused to the de-facto complainant. Even as per the allegation made in the FIR, only the de-facto complainant appears to have visited the place of the petitioners and made quarrel. So according to him, section 334 IPC will come into operation and the prosecution cannot be proceeded against the petitioners.

6. In the light of the own admission that has been made by the petitioners, whether such a contention is accepted or not is a matter for consideration by the trial court. Whether there was any corroboration is also matter for consideration by the trial court. Whether section 334 IPC is attracted to the facts and circumstances of the case or not is also a matter for trial. So the contention on the part of the petitioners that no injury has caused by the petitioners in the alleged occurrence, so no ground is also available to proceed against the petitioners is not at all acceptable.

7. The judgments cited by the petitioners are not made applicable to the facts and circumstances of this case. When the specific allegation of causing injury has been raised, it may not be proper on the part of this court to quash the proceedings at the initial stage. The learned counsel for the petitioners would rely upon the written Article with regard to the injuries. That may not be taken into account at this stage. So, I find no merit in this petition and the petitioners must undergo the trial process.

9. In the result, this criminal original petition is **dismissed**. But however considering the fact that the de-facto complainant and the petitioner are brothers and also considering the oldness of the matter, there shall be a direction to the Judicial Magistrate, Rajapalayam to dispose of the case, within a period of five months from the date of receipt of a copy of this order. After, the compliance report must be submitted to this Registry. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

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 Judicial Magistrate,
Rajapalayam,
Virudhunagar District.
- 2.The Sub Inspector of Police,
Seithur Police Station,
Virudhunagar District,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**Cr1.OP(MD)No.18967 of 2019
13.04.2022**

MGJ(10.06.2022) 3P 4C