



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.19441 of 2019

and

Crl.MP(MD)No.11410 of 2019

1.Ramalingam
2.Sivakami
3.Baskar

: Petitioners/A1 to A3

Vs.

1.State represented by
Inspector of Police,
Anjugramam Police Station,
Kanyakumari District,
(in Crime No.287 of 2016)

: R1/Complainant

2.Neela

: R2/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No287 of 2016 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.P.T.Ramesh Raja

For 1st Respondent : Mr.B.Nambi Selvan
Addl. Public Prosecutor

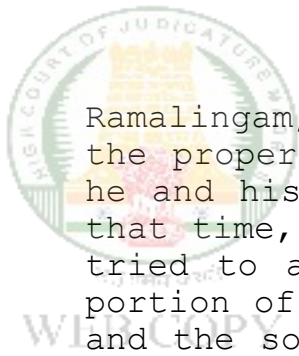
For 2nd Respondent : Mr.G.Aravinthan

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of Crime No.287 of 2016 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The 2nd respondent has lodged a complaint stating that they are owning the property in the northern portion of the village and



Ramalingam, who is A1 also having adjacent land. He claim right over the property belonged to him. On 24/05/2016 at about 2.00 pm, when he and his brother's wife proceeded to the above said property, at that time, all the accused persons trespassed into the property, A1 tried to assault him with aruval, A2-Sivakami by using the handle portion of the aruval caused injury to the 2nd witness namely Santhi and the sons of Sivakami also assaulted with wooden log and caused injury to various portion of the body and A3 namely Baskar assaulted him with wooden log and also criminally intimidated the above said Santhi and she admitted in the Arasipallam Government hospital. Based upon the complain given by the de-facto complainant, a case in Crime No.287 of 2016 for the offence under sections 447, 294(b), 323, 506(1) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act 2002 has been registered.

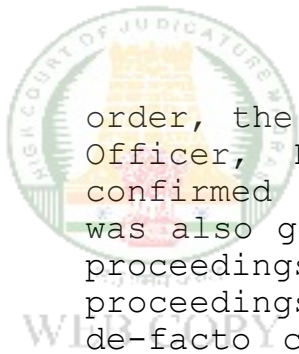
3.Heard both sides.

4.The occurrence said to have taken place on 25/05/2016 and so far the investigation is not completed and final report was not filed before the concerned court. According to the petitioners, the cognizance of the offences are bared under section 468 Cr.P.C.

5.The learned Additional Public Prosecutor would submit that the investigation has been completed and the final report also filed before the concerned court namely the Additional Mahila Court at Magistrate Level, Nagercoil. To show the same, they have also filed a status report, wherein it has been mentioned that the final report was filed before the concerned court and the date of presentation of the final report is not mentioned. So report has been called for from the concerned court namely Additional Mahila Court at Magistrate Level, Nagercoil and the trial court has submitted the report stating that the final report was not filed as on date.

6.Originally the case was transferred from the Judicial Magistrate No.3, Nagercoil to the Additional Mahila Court at Magistrate Level, Nagercoil. In spite of adjournments, the respondent police is not in a position to inform the court the correct date of presentation of the final report.

7.It is also seen that no petition under section 473 cr.P.C was filed before the concerned court seeking extension of time for filing the final report. So apart from the above said legal issue, a factual issue has been raised by the petitioners is that in respect of the above said land dispute, the de-facto complainant has filed a petition before the Revenue Divisional Officer, Nagercoil, seeking inclusion of her name and her brothers name in the joint patta and that was enquired by the Revenue Divisional Officer, Nagercoil and he has passed an order stating that the disputed property is in the possession of A1. The service connection is also standing in the name of A1. So in respect of the above said property, they approached the civil court. Against this



order, the above said Neela filed appeal before the District Revenue Officer, Kanyakumari and by order, dated 24/06/2019, he also confirmed the order of the Revenue Divisional Officer. A direction was also given to Neela to work out her remedy through proper civil proceedings. Subsequent to the occurrence, it appears that the proceedings have been initiated by the above said Neela, who is the de-facto complainant herein to include her brother's name in the joint patta. So factually also, the offence under section 447 IPC may not be attracted, since there is a specific finding that the property is in possession of A1.

8.In respect of 294(b) IPC, the learned counsel appearing for the petitioners would submit that the offences are not attracted, since it is said to have been taken place in the private property. So section 294(b) IPC is also not attracted.

9.Section 294(b) reads as under:-

"294(b)sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

10.So far as 506(i) IPC is concerned, mere verbal threat will not attract the offence of 506(i) IPC as has been held in various courts.

11.Section 506(1) IPC reads as follows:-

"506. Punishment for criminal intimidation. -
Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc."

12.No doubt, the offence under section 323 IPC is made out, since the injured person has been admitted in the hospital.

13.The learned counsel appearing for the petitioners would submit that the Revenue Authorities are not competent to decide the possession of the property. Without proper enquiry, such a decision has been rendered. Now, whatever may be, this court under section 482 Cr.P.C cannot go into the disputed issues. As mentioned earlier final report has not been filed so far before the concerned court. It is barred by limitation as early as on 25/05/2019 itself. So, on that ground, this petition is liable to be allowed.



14.In the result, this criminal original petition is **allowed**. The FIR in Crime No.287 of 2016 on the file of the 1st respondent is hereby quashed in respect of the petitioners. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

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 Inspector of Police,
Anjugramam Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-12908[F] dated 18/03/2022)

Crl.O.P. (MD)No.19441 of 2019
17/03/2022

RK(31/03/2022) 4P 4C