



Crl.O.P.No.4545 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.4545 of 2023

and

Crl.M.P.Nos.2853 and 2855 of 2023

- 1.S.Sivapatham
- 2.S.Ashok Kumar
- 3.Sivakumaran
- 4.S.Mahalakshmi

... Petitioners

Vs.

- 1.The State represented by,
The Inspector of Police,
T.Palur Police Station,
Ariyalur District.

- 2.Tamilselvan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the C.C.No.315 of 2022 pending on the file of the Judicial Magistrate Court. No.1 at Jayamkondam and quash the same.

For Petitioner : Mr.L.Ramu

For R-1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.315 of 2022 pending on the file of the Judicial Magistrate Court. No.1, Jayamkondam and quash the same.

2. Learned counsel for the petitioners submitted that, petitioners are prosecuted in C.C.No.315 of 2022 on the file of Judicial Magistrate Court No.1, Jayamkondam for the offences under Sections 294(b), 323, 324, 506(2) and 379 IPC and Section 4 of the Prohibition of Harassment of Women Act, 2002. It is the submission of the petitioners that, it is alleged in the first information report that, complaint of the petitioners was recorded, while the defacto complainant/2nd respondent was taking treatment as in-patient at Government Hospital, Jayamkondam. However, a copy of the Accident Register of the 2nd respondent shows that, he was treated as out-patient on 16.09.2021 and therefore, claim made in the first information report and statement of the 2nd respondent was recorded at Government Hospital, Jayamkondam, when he was taking treatment as in-patient is totally false.

2.1. Learned counsel for the petitioners further submitted that, though the first information report was registered for the offences 376 IPC, this Section



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was dropped while filing final report, without filing alteration report for altering the Sections. When there is a counter case, respondent police has not investigated the counter case, registered in Crime No.546 of 2021, but final report was filed only in Crime No.547 of 2021. It is a violation of the Police Standing Order 588A. On all these grounds, learned counsel for the petitioners seeks for quashment of C.C.No.315 of 2022 pending on the file of the Judicial Magistrate Court. No.1, Jayamkondam.

3. In response, learned Government Advocate (Criminal side) submitted that, discrepancies in the first information report and Accident Register with regard to treatment given to the petitioner, whether he was taking treatment as an in-patient or out-patient and date of recording of his statement can only be clarified by the police officer, who registered the first information report during the course of trial. That aspect cannot be considered now. Section 379 IPC was dropped in the final report, for the reason that, offence was not made out. In the counter case in Crime No.546 of 2021, investigation is completed and final report is ready and will be filed in due course of time.

4. Considered the rival submissions and perused the records.



5. Insofar as this case is concerned, first information report allegations are that, on 16.09.2021, at about 3.00 p.m., when the 2nd respondent was ploughing his land with tractor, accidentally a tree was damaged. Therefore, the accused, Sivapatham, Ashok had come there, scolded the defacto complainant in filthy language, pushed him out from the tractor. Sivapatham hit him with a wooden log and Ashok hit him with wooden stick on his head. Sivapatham bite defacto complainant's right thumb. When defacto complainant's mother Lalitha tried to interfere, Sivapatham and his wife Mahalakshmi pulled her hair and assaulted her with hands and accused made criminal intimidation. During the course of incident, accused had also stolen gold chain of defacto complainant. Defacto complainant had given a statement supporting the allegations made in the complaint. This statement was supported by the Statement of Lalitha, Azhagar and Ramachandran. Dr.Sundharavadhani had given a statement, stating that, 2nd respondent suffered simple injury.

5.1. Though there are certain discrepancies pointed by the learned counsel for the petitioners, with regard to the place where the statement of 2nd respondent was recorded and date on which statement was recorded, this Court is of the view that, these discrepancies can be clarified by the witnesses, only during the course of trial. Leaving these discrepancies apart, this Court finds



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that, there are enough materials available to frame appropriate charges against the petitioners for proceedings with the trial. In the counter complaint case, investigation is also over and final report will be filed soon. This Court finds that, there is no merits for seeking quashment of C.C.No.315 of 2022 pending on the file of the Judicial Magistrate Court. No.1 at Jayamkondam.

6. In the result, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

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Index:Yes/No
Speaking/Non speaking order
gd

To

- 1.The Judicial Magistrate Court. No.1,
Jayamkondam.
2. The Inspector of Police,
T.Palur Police Station,
Ariyalur District.
3. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN.J.,

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