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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.6117 of 2022
and Crl.MP.No.3417 of 2023

1. Ashok Kumar

2. Dhanavel Karthikeyan

Petitioners/Accused

VS.

1. State Represented by
Sub- Inspector of Police,
Pallapatty Police Station,
Salem City.

2. Nanchappan

Respondent/De-Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in pertaining to the summary trial case No.6636 of 2021, pending before the learned Judicial Magistrate Court II, Salem, pertaining to the case in Crime No.254 of 2021 on the file of the 1st respondent.

For Petitioner : Mr.S.Senthamizhan

For Respondent :Mr.A.Gopinath
Government Advocate for R1



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ORDER

This Criminal Original petition has been filed to quash the proceedings in STC No.6636 of 2021, pending before the learned Judicial Magistrate Court II, Salem,

2. The case of the prosecution is that the daughter of the 2nd respondent married the 2nd petitioner and there was some matrimonial dispute. On 03.07.2021, the 2nd respondent is said to have gone to a shop to purchase water bottle and at that point of time, the accused persons came there and abused him in filthy language and he was also attacked on his cheeks and on his back. As a result, the 2nd respondent sustained injuries and he took first aid treatment at Mohan Kumaramangalam Government hospital, Salem. A complaint was given by the 2nd respondent on 04.07.2021 before the 1st respondent and based on the same, an FIR came to be registered in Crime No.254 of 2021 for offence under Section 294(b), 323 of IPC.

3. The investigation was completed and final report was



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filed before the Court below and the same was taken on file in STC No.6636 of 2021 for offence under Section 294(b) and 323 of IPC.

4. Heard Mr.S.Senthamizhan, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate for 1st respondent.

5. The notice sent to the 2nd respondent has been returned with an endorsement "no such person in the address". In the present case, the manner in which the law was set in motion, itself is in dispute. The complaint given by the 2nd respondent reads as if he went to the police station and gave the complaint on 04.07.2021. However, the statement recorded from the Head constable (LW7) reads as if he got an information through the hospital on 03.07.2021 and he went to the hospital and recorded the statement of the 2nd respondent and he came back and registered the FIR. This clearly shows the discrepancy in the manner in which the law was set in motion.



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6. In the complaint, there is absolutely not even a whisper that the 2nd respondent was verbally abused in a public place. However, in the final report, there is an improvement as if the 2nd respondent was verbally abused by the petitioners in a public place. The same is not substantiated from the statements of any of the witnesses. Hence, the offence under Section 294(b) IPC has not been made out against the petitioners.

7. Insofar as the injury that was sustained by the 2nd respondent, the Doctor (LW8) states that the 2nd respondent came to the hospital took first aid and thereafter, went away from the hospital. He has also given a wound certificate. It is seen that there is no whisper about the nature of injury that was sustained by the 2nd respondent. Considering the fact that there was already a matrimonial dispute between the 2nd petitioner and the daughter of the 2nd respondent, the manner in which the entire incident has been described by the prosecution becomes improbable. That apart, the 2nd respondent had an axe to grind against the petitioners. There is no material to substantiate the offence under Section 323



of IPC also.

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8. In the light of the above discussion, the continuation of the Criminal proceedings against the petitioners will result in an abuse of process of Court and the same requires the interference of this Court. Accordingly, the proceedings in STC No.6636 of 2021, on the file of the learned Judicial Magistrate Court II, Salem, is hereby quashed.

9. This Criminal Original petition is accordingly allowed. Consequently, the connected miscellaneous petition is closed.

23.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To
1. The Fast Track Judicial Magistrate,



Tiruppur
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2. The Public Prosecutor,
High Court, Madras

N. ANAND VENKATESH, J.

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