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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reservation : 28/06/2023

Date of Pronouncement : 21/07/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.2414 of 2022

and

Crl.MP(MD)Nos.1768 and 1768 of 2022

1.Palani @ Palaniyammal
2.Chandran
3.Kondammal

Petitioners/A2 to A4

Vs.

1.State rep. by
Inspector of Police,
Pandalgudi Police Station,
Virudhunagar District.
(Crime No.159 of 2016)

: R1/Complainant

2.Perumal Samy

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in CC No.223 of 2018 on the file of the Judicial Magistrate, Aruppukottai, Virudhunagar district and quash the charge sheet as against the petitioner herein and pass such further or other orders.

For Petitioner : Mr.B.Deepak

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**ORDER**

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This criminal original petition has been filed seeking quashment of the case in CC No.223 of 2018 on the file of the 1st respondent.

2.The case of the prosecution is that the de-facto complainant namely Perumal samy lodged a complaint stating that because of the family issue between himself and the accused, they were not in talking terms. Because of the above said enmity, on 15/11/2016 at about 07.00 pm, the accused persons trespassed into the house of Solayappan, abused in filthy language and misbehaved with her. On hearing the noise of Vijaya, the de-facto complainant and Solayppan went to that place. At that time, they were also abused and assaulted by the accused with wooden stick. When that was intervened by the above said Vijaya, she was also assaulted. When the neighbours gathered, the accused escaped from that place and the witnesses have also been criminally intimidated. Over the above said occurrence, a case in Crime No.159 of 2016 was registered for the offences under sections 448, 294(b), 323, 506(i) and 109 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2008. After



completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.223 of 2018 by the Judicial Magistrate, Aruppukottai.

3.Now seeking quashment of the same, this petition has been filed by the A2 to A4 stating that originally five persons have been implicated as accused and during the course of investigation, finding that A2-Suresh Kannan was not involved, he was deleted from the final report. A counter case has also been registered in Crime No.160 of 2016 for the offences under sections 147, 148, 294(b), 323, 324, 506(ii) IPC r/w section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act and the final report was also filed and taken cognizance in CC No.207 of 2018 by the Judicial Magistrate, Aruppukottai. In the above said occurrence, A1 was severally attacked by the de-facto complainant's party and took treatment for head injuries as inpatient in the Government Hospital, Aruppukottai.

4.Heard both sides.



5.It is a case and counter. Reading of the cases in both matters, it is seen that over the family issue, continuous trouble exists between the parties.

6.CD files in respect of both cases have been called for and perused.

7.Perusal of the CD files shows that the date of occurrence in both the matters is 18/12/2016 between 06.45 pm and 07.00 pm. It was reported to the police, on 16/11/2016. So far as this case is concerned, as stated above, there were two injured and so far as the counter case in Crime No.160 of 2016, there are two injured namely Thangaraj and his sister. Similarly, in this matter also there were two injured.

8.Reading of the both cases, it is seen that over the family enmity between two groups of people, trouble has arisen on the date and time of the occurrence and both the accused involved in assaulting each other causing injury to both of them. But the 1st respondent police has not undertaken the above said investigation as per PSO-588-A. Even without referring to the counter



9. On the sole ground, the entire prosecution not only in this case, but also in CC No.207 of 2018 is liable to be quashed. So far the CC No.207 of 2018 is concerned the de-facto complainant party has not filed any petition.

10. In the result, this criminal original petition is **allowed**. The case in Cc No.223 of 2018 on the file of the Judicial Magistrate, Aruppukkottai, is hereby quashed, so also the counter case in CC No.207 of 2018 is quashed, even the de-facto complainant's party has not filed any petition. Consequently connected Miscellaneous Petitions are closed.

21/07/2023

Index:Yes/No
Internet:Yes/No
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To,
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- 1.The Judicial Magistrate,
Aruppukkottai,
Virudhunagar district.
- 2.The Inspector of Police,
Pandagudi Police Station,
Virudhunagar district.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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