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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.4490 of 2023

and

Cr1.MP(MD)Nos.3947 and 3948 of 2023

- 1.J.Joan Of Arc
- 2.Soosaiyammal
- 3.Mariyaselvam @ Ponnathal : Petitioners/A1 to A3

Vs.

- 1.The State rep. by
Sub Inspector of Police,
Thiruchittrambalam,
Thanjavur District. : R1/Complainant
- 2.M.S.Arulsamy
(R2 amended as per the order,
dated 06/04/2023) : R2/De-facto complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to CC No.129 of 2022 on the file of the District Munsif-cum-Judicial Magistrate at Peravurani and quash the same and pass such further or other orders.

For Petitioners : Mr.T.Balakumaran

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

For 2nd Respondent : No appearance

**ORDER**

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This criminal original petition is filed seeking quashment of the case in CC No.129 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Peravurani.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating enmity exists between their family and the accuse family over a piece of land situated near their house. On 20/03/2014, they were working in their field. At that time, they were informed that the accused persons caused assault to his son namely Antonysamy. They went to the house immediately and at that time, found Antonysamy with injuries. He revealed that the accused persons joined together, caused assault with sticks. When that was enquired, again the accused persons abused in filthy language, assaulted with stones. They were also criminally intimidated. On the basis of the above said occurrence, a case in Crime No.32 of 2014 was registered for the offences under sections 294(b), 323, 336 and 506(i) IPC. After that, final report was filed and it was taken cognizance in CC No.129 of 2022 by the District Munsif-cum-Judicial Magistrate, Paravurani.



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3. Seeking quashment of the same, this petition has been filed on the ground that it is a case and counter. The counter case was registered in Crime No.33 of 2014 on the basis of the complaint given by the 1st petitioner herein for the offences under sections 294(b), 323, 379 and 506(i) IPC and final report was filed and taken cognizance in CC No.398 of 2014 by the Judicial Magistrate, Pattukottai. In the above said case, the de-facto complainant and others admitted their guilt and paid fine also. The above judgment rendered, on 20/03/2015. So it is seen that in the counter case, the de-facto complainant party admitted their guilt. The petitioners would further submit that they are the aggressors for which, they have paid fine. So, this present proceedings must be quashed.

4. Heard both sides.

5. Reading of the final report in the above said counter case as well as this case, it is seen that on 20/03/2014, trouble has arisen between the parties over a piece of land.



6.It has been further seen that both side caused injuries to other. The Investigation Officer ought to have investigated the matter as per PSO-588A. But without verifying due process, he has filed final report in both the matters. This is first defect. The second defect is that since the de-facto complainant party admitted their guilt, it is presumed that they were the aggressors.

7.So, on the sole ground, this petition is liable to be allowed.

8.In the result, this criminal original petition is **allowed**. The case in CC No.129 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Peravurani, is herein quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

27/06/2023

Index:Yes/No
Internet:Yes/No
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To,



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- 1.The Judicial Magistrate,
Peravurani.
- 2.The Inspector of Police,
Thiruchitrambalam,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G. ILANGO VAN, J



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