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1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.6485 of 2023

and

Crl.MP(MD)No.5679 and 5680 of 2023

1.Praveen @ Praveen Raj
2.Vishal
3.Harish Kumar
4.Prakash Raj
5.Gowtham

: Petitioners/A1 to A5

Vs.

1.The Deputy Superintendent of Police,
Madukkur, Thanjavur District.

2.The State Rep. by
The Inspector of Police,
Madukkur Police Station,
Thanjavur District.

(Crime No.1 of 2021) : R1 and R5/Complainants

3.Mahendran : 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 Special SC No.70 of 2021 on the file of the I Additional District Court (PCR), Judge, Thanjavur and quash the same.

For Petitioners : Mr.R.Tamil Amuthan

For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor

**ORDER**

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This criminal original petition is filed seeking quashment of the case in Special SC No.70 of 2021 on the file of the I Additional District Court (PCR), Judge, Thanjavur.

2.The case of the prosecution in brief:-

On 31/12/2020 at about 11.30 pm, when the de-facto complainant along with his family members went to perform pooja at Pillaiyar Kovil on the eve of new year, at that time, all the accused along with some juveniles came with beer bottle, wooden log and abused them by calling their caste name. A1 broke open the beer bottle and thrown it on them, causing injury. A2 assaulted by wooden log, causing injury and other accused persons pushing down the de-facto complainant and assaulted him with hands and abused them. Based upon the complaint given by the de-facto complainant, a case in Crime No.1 of 2021 was registered for the offences punishable under sections 147, 148, 324, 352, 294(b) IPC and section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (PoA) Amendment Act, 2015. After completing the investigation process, charge sheet has been filed and it was taken cognizance in



Special SC No.70 of 2021 by the I Additional District Judge, PRC Court, Thanjavur under sections 147, 148, 352, 294(b) IPC and section 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST (PoA) Amendment Act, 2015.

3. Seeking quashment of the same, this petition has been filed on the ground that none of the allegations mentioned in the FIR or final report attract any of the ingredients of the offences alleged.

4. Heard both sides.

5. It is a case and counter. These petitioners are facing charges as noted above in Special SC No.70 of 2021 and counter case has been registered in Crime No.2 of 2021 for the offences under sections 147, 148, 294(b), 447, 506(ii) IPC against the counter party.

6. It has been brought to the notice of this court that without referring to the counter case, final report has been filed in the present FIR in Crime No.1 of 2021 and taken cognizance in Special SC No.70 of 2021 by the trial court. Now the trial process is underway. The counter case is still under investigation stage.



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7.The learned counsel appearing for the petitioners would submit that it is a case and counter case and without following proper procedure as prescribed in PSO-588A, the Investigating Officer has filed the final report in this case, even without verifying or investigating, who are the aggressors. This is the only point that has been raised by the petitioners.

8.Reading of the complaint, in both cases, it is seen that trouble has arisen between the parties, over the performance of pooja. A counter complaint has been given against the de-facto complainant and his family members stating that on 31/12/2020 at about 11.30 pm, the elder son of Mahendran, who is the de-facto complainant herein, along with some others, went to the house of the petitioners and threatened them, which was registered in Crime No.2 of 2021.

9.Now coming to the final report that has been filed in this case, we see that without even referring the counter case, final report has been filed making allegations against both the parties that they have committed the offences as noted above. The Investigating



Officer ought to have investigated the matter as per the procedure set out in PSO-588A and would have found out, who are the aggressors. But without finding out the above said fact, he has filed the final report in this matter, even without referring to the counter case, which is not permissible in law. On that sole ground, the entire prosecution is bad in law and liable to be quashed.

10. Time and again, it has been addressed and impressed upon the Investigating Officer to adopt proper procedure, while investigating the case and counter case, but it has not been taken into account by the officials.

11. In the result, this criminal original petition is **allowed**. The entire proceedings in Special SC No.70 of 2021 on the file of the I Additional District Court (PCR), Thanjavur, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

07/06/2023

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

- 1.The I Additional District Court (PCR),
Thanjavur.
- 2.The Deputy Superintendent of Police,
Madukkur,
Thanjavur District.
- 3.The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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7

G.ILANGOVAN, J

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Cr1.OP(MD)No.6485 of 2023

07.06.2023