



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation : 28/02/2023

Date of Pronouncement : 03/04/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.3503 of 2019

and

Cr1.MP(MD)No.1998 and 1999 of 2019

1.Sankaranarayanan

2.Jeyalakshmi : Petitioners/A1 and A2

Vs.

1.The State rep. by

The Inspector of Police,
Town Police Station,
Sankarankovil,
Tirunelveli District.

: R1/Complainant

2.Lala @ Saankarapandiyan : R2/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the charge sheet in CC No.245 of 2015 on the file of the Judicial Magistrate, Sankarankovil and quash the same as illegal and pass such further or other orders.

For Petitioners : Mr.G.Thiruvarutselvan

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)



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2

For 2nd Respondent : Mr.P.Bala Murugan

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.245 of 2015 on the file of the Judicial Magistrate, Sankarankovil.

2.The case of the prosecution in brief:-

On 27/01/2015 at about 02.00 pm, when the de-facto complainant was in his house, A2 abused in filthy language, which was also followed by A1 and caused assault to the de-facto complainant with iron rod. Similarly, A2 also caused assault with stick on various parts of the body. He was also criminally intimidated. Over the above said occurrence, a case in Crime No.59 of 2015 was registered for the offences under sections 294(b), 323, 324 and 506(ii) IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.245 of 2015 by the Judicial Magistrate, Sankarankovil.



3. Seeking quashment of the same, this petition has been filed by the petitioners on the simple ground that there is a manipulation of records by the Investigating Officer at the time of presentation of the final report before the concerned trial court.

4. Heard both sides.

5. The first grievance of the petitioners is that the de-facto complainant is an accused in Crime No.58 of 2015, which was registered by the very same Police Office, who registered the present FIR also and it was closed on the same day itself. So, there is a bias on the side of the Investigating Officer.

6. Now let us straightaway go to the issue. Crime No.58 of 2015 was registered on the basis of the complaint given by the first petitioner herein against the de-facto complainant and others. The date of complaint is 27/01/2015. The time is 08.30 in the night and the time of occurrence stated to be 02.10 pm on that date. Wherein, it has been stated that due to previous enmity with regard to land issue, the petitioners along



with some other persons trespassed into the house of the de-facto complainant, abused and caused assault. He was admitted in the hospital. The police went to the hospital and recorded his statement. Based upon which, this FIR came to be registered.

7.Now, as a counter-blast, the de-facto complainant herein gave a complaint on the same day at about 10.30 pm against the petitioners making the above said allegations. Originally, it was registered, on 27/01/2015 and later, it was altered, on 08/02/2015. This has been greatly commended by the petitioners stating that it is a clear case of manipulation. The date of statement recorded is mentioned as 27/01/2015. The date of presentation of the charge sheet before the trial court is 19/08/2015, which is evident from the court seal. So, the question which arises for consideration is whether this alteration made by the Investigating Officer affects the entire prosecution as manipulated one.

8.As stated above, the date of FIR is 27/01/2015. The statement of witnesses have been recorded, on 28/01/2015. On 28/01/2015, the de-facto complainant



alleged to have stated that Chellaiah, the father of A1 was not available in the place of occurrence, but in the statement, he has given exaggeration as if Chellaiah was present in the place of occurrence. So the above said Chellaiah was deleted from the final report at the time of presentation before the concerned court.

9.The de-facto complainant alleged to have absconded from the hospital, on 29/01/2015. So according to the petitioners, before presentation of FIR, Wound Certificate would not have been obtained. But we see the date mentioned by the Medical Officer is 31/01/2015. All those alleged mistakes cannot be a matter for consideration by this court while exercising the jurisdiction under section 482 Cr.P.C. These are the factual aspects, which got to be gone into by the trial court. A simple mistake alleged to have been committed by the Investigating Officer cannot be a matter for consideration for quashment.

10.Perusal of the records shows that there was an injury to the de-facto complainant and he was admitted in the hospital and the Wound Certificate has also been



collected. So, *prima facie* materials are available. So, I am of the considered view that no strong has been made out by the petitioners for quashing the proceedings. On what ground, the counter case was closed, is a matter for consideration by the trial court. If the petitioners are aggrieved, they can vindicate their grievance by proper proceedings. I find absolutely no merit in this petition.

11. In the result, this criminal original petition is **dismissed**. But however, considering the age of the petitioners, their personal appearance is dispensed with on condition that within 15 days from the date of receipt of a copy of this order, the petitioners must appear before the trial court and file an undertaking affidavit that they will appear as and when required by the court, the attested photograph must be attached in the affidavit and they must ensure that they are properly represented by an Advocate. Accordingly, CrI.MP(MD)No.1999 of 2019 is ordered. Consequently, connected CrI.MP(MD)No.1998 of 2019 is closed.

03/04/2023

Index:Yes/No
Internet:Yes/No

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7

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To,

- 1.The Judicial Magistrate,
Sankarankovil,
Tirunelveli District.
- 2.The Inspector of Police,
Town Police Station,
Sankarankovil,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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8

G.ILANGOVAN, J

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03/04/2023