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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.6573 of 2023

and

Crl.MP(MD)Nos.5741 and 5742 of 2023

1.Radha Krishnan

2.Rajan

: Petitioners/A1 and A2

Vs.

1.The State rep by
its Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.

(Crime No.277 of 2022)

: R1/Complainant

2.Manokaran

: 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 the charge sheet in CC No.1202 of 2022 on the file of the Judicial Magistrate No.2, Kuzhithurai and quash the same.

For Petitioners : Mr.S.Sivakumar

For 1st Respondent : Mr.B.Nambiselvan

Additional Public Prosecutor

O R D E R

This criminal original petition is filed seeking quashment of the case in CC No.1202 of 2022 on the file of the Judicial Magistrate No.2, Kuzhithurai.



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2. The case of the prosecution in brief:-

The de-facto complainant and the accused belongs to the very same village. Over the temple issue, enmity exists between two groups of the people, over which, a suit is also pending before the civil court in Takkallai. Later, the de-facto complainant established a separate temple and performing pooja. Because of that also, there was enmity between two groups of people. In pursuance of which, on 30/09/2022 at about 10.40 am, the accused persons restrained the de-facto complainant, abused him in filthy language, and caused assault with iron key. A2 caused assault with hands. They made threat to withdraw the case. Over which, a case in Crime No.277 of 2022 was registered for the offences punishable under sections 341, 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.1202 of 2022 by the Judicial Magistrate No.2, Kuzhithurai.

3. Now seeking quashment of the same, this petition has been filed on the ground that A1 is working in Border Security Force and A2 in a TASMAS shop; Over the property issue, a suit in O.S No.63 of 2021 is also



pending on the file of the District Munsif Court, Padmanabhapuram. So they have been falsely implicated in the above said occurrence.

4. Heard both sides.

5. Absolutely, no legal ground worth considering has been raised by the petitioners. Except stating that over the previous enmity on the sharing of the ancestral property, the present false complaint has been foisted. Except that, no other ground has been made by the petitioners.

6. Whether the petitioners were involved in the above said actual assault, criminal intimidation and abuse are all the factual issues, which cannot be gone into by this court at this stage. But perusal of the records shows that the de-facto complainant sustained injuries and admitted in the hospital. The Medical Officer, who treated the de-facto complainant was also examined during the course of investigation and material in the form of Wound Certificate has also been collected.



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7. When *prima facie* materials are available, without any basis, this petition has been filed by the petitioners. I find no reason to quash the proceedings, the trial must be taken in its logical end.

8. In the result, this criminal original petition stands **dismissed**. But however, the first petitioner is working in the Border Security Force and the second petitioner is working in a TASMACH shop, their personal appearance is dispensed with before the trial court 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.5742 of 2023 is allowed. Consequently, connected CrI.MP(MD)No.5741 of 2023 is closed.

23/06/2023

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

- 1.The Judicial Magistrate No.2,
Kuzhithurai.
- 2.The Inspector of Police,
Puthkadai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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Cr1.OP(MD)No.6573 of 2023

23.06.2023