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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.6868 of 2023

and

Crl.MP(MD)Nos.5966 and 5967 of 2023

1.Murugavel
2.Narasingaperumal
@ Karuppiah : Petitioners/A1 and A2

Vs.

1.The Inspector of Police,
Andipatti Police Station,
Theni District.
(Crime No.277 of 2022) : R1/Complainant
2.Santhi : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records connected with the charge sheet in CC No. 403 of 2022 pending on the file of the Judicial Magistrate, Andipatti and quash the same and pass such further orders.

For Petitioners : Mr.N.Jeyaram Sidharth
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking quashment of the case in CC No.403 of 2022 on the file of the Judicial Magistrate, Andipatti.

2.The facts in brief:-

There was a money transaction between the de-facto complainant and the accused. On 18/08/2022 at about 09.00 am, when the de-facto complainant was doing her business in the fair price shop, her son went to the neighbouring shop to purchase the flowers. At that time, A1 and A2 picked up quarrel, abused him and also assaulted. When the de-facto complainant went to prevent the above said assault, she was also abused, assaulted, kicked, causing simple injury. They have also criminally intimidated the de-facto complainant and her son. On the basis of the complaint given by the de-facto complainant, a case was registered in Crime No.277 of 2022 for the offences under sections 294(b), 323 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completing the formalities of investigation, final report was filed and it was taken on file in CC No.403 of 2022 by the Judicial Magistrate, Andipatty.



3. Seeking quashment of the same, this petition has been filed by the petitioners/ A1 and A2 stating that none of the allegations mentioned in the final report attract any of the ingredients of the offences punishable under sections 294(b), 323 and 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. Heard both sides.

5. It is a case of alleged assault, criminal intimidation, abusive etc. Whether there was any injury suffered by the de-facto complainant and her son in the above said alleged occurrence, cannot be a matter for consideration by this court sitting the jurisdiction under section 482 Cr.P.C. It is absolutely a factual issue.

6. The learned Additional Public Prosecutor would submit that when a case of assault is made and statement of the Doctor, who gave treatment to the injured, has been recorded and Wound Certificate has been obtained, the trial must be taken to its logical conclusion. No factual issues can be considered by this court.



7. Now the ground on which, this petition came to be filed is that because of the continuous trouble created by the de-facto complainant, on the basis of the complaint given by the first accused, enquiry in CSR No.652 of 2022 was undertaken and he was also charged for the offence punishable under section 290 IPC and paid a sum of Rs.1,000/- as fine. Because of the above said motive only, the present false complaint has been given. The second complaint was registered in Crime No.815 of 2022, on the basis of the complaint given by A1. In the above said enquiry, there was a compromise between the parties. On 17/08/2022 on the next day, not only the son of the de-facto complainant picked up quarrel, but also attacked the second petitioner with stone and caused injury. He was admitted in the hospital and the case was registered.

8. The next ground is that CCTV camera footage is available in the place of occurrence would show that after the alleged occurrence, the second respondent was available in the shop, which will show that the occurrence itself is a false one.



9. But as rightly pointed out by the learned Additional Public Prosecutor, when the allegation of assault, which is also supported by the documentary evidence and expert evidence, only the trial process will show the true facts. Simply because there was a simple clash over the two groups, quashing of the trial process is not permissible. No strong case has been made by the petitioners to quash the proceedings. The trial process must be taken to its logical conclusion. So, I find no merit in this petition.

10. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

25/04/2023

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

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- 1.The Judicial Magistrate,
Andipatty.
- 2.The Inspector of Police,
Andipatty Police Station,
Theni 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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