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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP (MD) No.10185 of 2023

and

Cr1.MP (MD) Nos.8086 and 8087 of 2023

1.M.Palanikumar

2.P.Malarvizhi

:Petitioners/A1 and A2

Vs.

1.The Inspector of Police,
Thenkarai Police Station,
Periyakulam,
Theni District.

: R1/Complainant

2.G.Seeivasan

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in CC No. 362 of 2022 on the file of the Judicial Magistrate, Periyakulam and quash the same and pass such further or other orders.

For Petitioners : Mr.J.Selvin Rajesh
for M/s.Dictum Law Firm

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**ORDER**

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This criminal original petition is filed seeking quashment of the case in CC No.362 of 2022 on the file of the Judicial Magistrate, Periyakulam.

2.The case of the prosecution in brief:-

On 06/05/2022 at about 07.00 pm, the first accused standing in front of the de-facto complainant's house, abused. So the de-facto complainant enquired A1 about this. At that time, A1 abused the de-facto complainant in filthy language, caused assault with hands and his wife namely Malarvizhi also caused assault with hands. They also repeatedly assault with iron rod. They also made criminal threat. Upon which, a case in Crime No.176 of 2022 was registered for the offences under sections 294(b), 323, 324 nad 506(ii) IPC. After completing the investigation process, final report was filed and it was taken cognizance in CC No.362 of 2022 by the Judicial Magistrate, Periyakulam.



3. Seeking quashment of the same, this petition has been filed on the ground that because of the issue over the parking of the two wheeler, trouble exists between two parties and only the de-facto complainant picked up quarrel, abused him in filthy language, in which the petitioners were also assaulted. The assault was made by the de-facto complainant and his relatives. Even though, the complaint was preferred by the first petitioner, the first respondent refused to receive the complaint and instead, this false case has been registered against the petitioners. After complaining to the Superintendent of Police, CSR No.2101 of 2022 was registered. Only as a counter blast to the complaint given by the first petitioner, this false case has been given.

4. Heard both sides.

5. It is a case of alleged offence of abuse, assault, causing injury with deadly weapons.

6. A defence has been taken by the petitioners to the effect that only they were assaulted, for which, they preferred a complaint, which was registered in CSR No.210



could not ascertain the nature of the injury. So, enough materials have been collected during the course of investigation to show the injured suffered by the de-facto complainant.

9. Whether the above said injury has been caused by the petitioners or not, cannot be a matter for consideration by this court by exercising the jurisdiction under section 482 Cr.P.C. It is purely a factual issue, which got to be verified at the time of trial.

10. The next point is that the place of occurrence is also differs. In the complaint, it has been specifically stated that in front of the de-facto complainant's house, the above said occurrence said to have been taken place. It is also purely a factual issue. So, even though, the de-facto complainant was discharged against the medical advice, the nature of injury suffered by him can be proved by the prosecution during the course of evidence. That issue cannot be taken into account at this stage. Except the factual issue, no other facts worth considering has been made by the petitioners.



11. So, I find no reason to entertain this petition.

Accordingly, this criminal original petition stands **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

28/06/2023

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

1. The Judicial Magistrate,
Periyakulam,
Theni District.
2. The Inspector of Police,
Thenkarai Police Station,
Periyakulam, Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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