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Crl.O.P.(MD)No.8397 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.8397 of 2023

and

Crl.MP(MD)Nos.7320 and 7321 of 2023

1.Pandi

2.Munichamy : Petitioners/A3 and A4

Vs.

1.The State represented by
The Sub Inspector of Police,
Perungudi Police Station,
Madurai District.

(Crime No.180 of 2014) : R1/Complainant

2.N.Sundar : 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 the proceedings in CC No306 of 2022 dated 26/07/2022 on the file of the Judicial Magistrate, Thirumangalam and to quash the same as against the petitioners.

For Petitioners : M/s.Lakshmi Gopinathan
for M/s.Polax Legal Solutions

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



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O R D E R

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This criminal original petition is filed seeking quashment of the case in CC No.306 of 2022 on the file of the Judicial Magistrate, Thirumangalam.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint that on 27/07/2014 at about 08.00 pm, when the de-facto complainant went to his Uncle's house in Solanguruni, the accused persons gathered with deadly weapons, caused assault to the de-facto complainant and caused several injuries. He was abused in filthy language and was criminally intimidated. Over the above said occurrence, a case in Crime No.180 of 2014 was registered for the offences under sections 147, 148, 323, 294(b), 355 and 506(ii) IPC. After several years, investigation has been completed and final report was also filed and it was taken cognizance in CC No.306 of 2022 by the Judicial Magistrate, Thirumangalam.

3. Seeking quashment of the same, this petition has been filed on the ground that due to previous enmity between the de-facto complainant and the people belongs to the Adi-Dravidar community, a false complaint has been given. The factual ground is also mentioned stating that



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on the particular date of occurrence, the de-facto complainant caused injury to the pregnant lady, who is the daughter-in-law of the first petitioner and she was also abused. When he objected, intervened by these petitioners, a false case has been given. These petitioners were not present in the place of occurrence at all.

4.The narration of the occurrence stated by the de-facto complainant does not tally with that of the finding recorded in the final report. There are material contradictions. It is further stated that there is no specific allegation against the petitioner either in the complaint or in the final report and cognizance is also barred by limitation because several years lapsed.

5.Heard both sides.

6.A case of assault. During the course of investigation, wound certificate of the de-facto complainant namely the injured has also collected. Whether the petitioners were present in the place of occurrence, whether the above said occurrence took place because of the provocation made by the de-facto complainant are all matters for consideration by the trial court.



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7.No doubt that there is a long delay in filing the final report. But there is no question of limitation for the offence under section 506(ii) IPC. Only the factual ground has been made by the petitioner that due to previous enmity this false complaint has been given. Except the factual ground, no other ground worth considering has been made out by the petitioners. Factual ground cannot be taken into account by this court. Sufficient materials have been gathered or collected during the course of investigation, which shows prima facie sustaining the injuries by the de-facto complainant. The contradictions that are mentioned by the petitioner in the petition can be taken into account only at the time of trial. While exercising the power under section 482 Cr.P.C, this court cannot engage in analyzing section 161 Cr.P.C Statement and the contradictions in the complaint. I find no merit in this petition.

8.In the result, this criminal original petition is **dismissed**. However, the personal appearance of the petitioners is dispensed with on condition that the petitioners shall appear before the concerned trial court within a period of 15 days from the date of receipt of a copy of this order and file an undertaking affidavit, by fixing their recent passport size photograph to the



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effect that they will appear before the trial court as when required and must ensure their proper representation through Advocate. Consequently, connected Miscellaneous Petitions are closed.

30/06/2023

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

- 1.The Judicial Magistrate,
Thirumangalam,
Madurai District.
- 2.The Sub Inspector of Police,
Perungudi Police Station,
Madurai 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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