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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19/06/2023

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

Cr1.OP(MD)No.9876 of 2023
and
Cr1.MP(MD)No.7884 of 2023

V.Narayanakumar : Petitioner

Vs.

1.State through
Inspector of Police,
Athoor Police Station,
Athoor,
Thiruchendur Sub-Division,
Thoothukudi.
(Crime No.38 of 2023) : R1/Complainant

2.N.Perumal : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of the proceedings in Crime No.38 of 2023 pending on the file of the 1st respondent Police/Athoor Police Station, Thoothukudi District and quash the same and pass such further or other orders.

For Petitioner : Mr.T.K.Gopalan

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

**ORDER**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.38 of 2023 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The de-facto complainant namely Perumal lodged a complaint stating that the property comprised in Survey No.596 situated in Keeranur area belongs to his daughter Santhi and his son-in-law Ananthakrishnan. A sale agreement was entered into between Santhi and Ananthakrishnan and one Narayanakumar, some 2-1/2 years ago. The sale amount was fixed at Rs.5,50,000/-. Rs.1,10,000/- was received as advance. Time limit was also fixed. But without complying the sale agreement, the above said Narayanakumar was working in the land. On 19/03/2023 at about 11.00 am, the de-facto complainant along with Ananthakrishnan and others went to that area, at that time, Narayanakumar abused them in filthy language, caused assault and criminally intimidated them. Over the above said occurrence, a case in Crime No.38 of 2023 was registered for the offences under sections 294(b), 323 and 506(i) IPC.



3. Seeking quashment of the same, this petition has been filed by the petitioner on the ground that the offences mentioned in the FIR does not attract any of the ingredients of the offences alleged. It is further stated that one M.Karuppanan was cultivating the land. At the time of the sale agreement, Ananthakrishnan asked the above said M.Karuppanan to hand over the possession to the petitioner in the month of November, 2021. After taking possession, the petitioner was cultivating the land and a request was made to execute the sale deed, after receiving the balance amount. But they demanded extra sale consideration. So, on 23/02/2023, one Shankar, who is the son of the de-facto complainant cut and removed the standing trees. So, a complaint was given by the petitioner, on 24/04/2023. One P.Muthu, who was working as SSI refused to receive the complaint. so subsequently, fresh complaint was sent through Registered Post. In the meantime, he filed a suit in O.S No.54 of 2023 before the Sub Court, Thiruchendur, against the Ananthakrishnan and his wife, seeking specific performance. On 19/03/2023, a case was registered against this petitioner falsely with the connivance of the above said P.Muthu, SSI. Since already, this petitioner filed a



direction petition before the Judicial Magistrate in Cr.P.C No.974 of 2023, as a counter blast to the above said proceedings, this present complaint has been registered.

4. Heard both sides.

5. According to the petitioner, a simple sale transaction dispute has been given criminal colour and this complaint has been given as a counter blast to the complaint given by him against one Ananthakrishnan and Shankar.

6.The learned Additional Public Prosecutor has produced the CD file, which shows that the de-facto complainant was admitted in the Government Medical College Hospital, Thoothukudi, on 19/03/2023. But no external injuries were found. But he has complained that he was assaulted by neighbours on that date. He was also brought to the hospital through Ambulance.

7. By pointing out this document, the learned
Additional Public Prosecutor would submit that since the



de-facto complainant was admitted in the hospital and final report was also filed and taken cognizance in CC No.231 of 2023, this matter has become infructuous.

8.Per contra, the learned counsel appearing for the petitioner would submit that absolutely, there is no material to show that the second respondent sustained injuries and even as per the Wound Certificate, he absconded from the Government Medical College Hospital without taking treatment. So according to him, since there is no material to show that the injury was caused to the de-facto complainant, filing of the final report and taken cognizance itself is bad under law.

9.But I am unable to agree with this line of argument. There is specific allegation to the effect that this petitioner caused assault to the de-facto complainant with hands and legs and caused simple injuries.

10.The word '**hurt**' defined in section 319 IPC, which reads as under:-

"319.Hurt.-Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt."



11. Now the allegation against the petitioner is that he has caused simple injury. Causing hurt will attract section 323 IPC. Complaining of bodily pain itself is sufficient to attract section 319 IPC. Whether actually, there was a bodily pain, because of the above said assault, it is a matter for consideration by the trial court at the time of trial. So, the matter has become infructuous. I find no reason to quash the proceedings.

12. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

19/06/2023

Index: Yes/No
Internet: Yes/No

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To,

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1. The Inspector of Police,
Athoor Police Station,
Thiruchendur Sub-Division,
Thoothukudi.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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