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CrI.O.P.(MD)No.10218 and 10338 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP(MD)Nos.10218 and 10338 of 2023

and

CrI.MP(MD)Nos.8126, 8128, 8246 and 8249 of 2023

(1)CrI.OP(MD)No.10218 of 2023:-

1.Ramkumar
2.V.Irulappan
3.I.Sasikumar
4.Nagalakshmi

: Petitioners/A1 to A4

Vs.

1.The State rep.
Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
(Crime No.234 of 2021)

: R1/Complainant

2.Gunasunthari

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records relating to the proceedings of the CC No.163 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppuvanam.

For Petitioners : Mr.R.L.Dhilipan Pandian

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

(2)CrI.OP(MD)No.10338 of 2023:-

1.Sasikumar
2.I.Ramkumar

: Petitioners/A1 and A2



CrI.O.P.(MD)No.10218 and 10338 of 2023

Vs.

1.The State rep.

Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
(Crime No.211 of 2023)

: R1/Complainant

2.Gunasunthari

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records relating to the proceedings of the CC No.162 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppuvanam.

For Petitioners : Mr.R.L.Dhilipan Pandian

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

COMMON ORDER

These criminal original petitions are filed seeking quashment of the case in CC Nos.162 and 163 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, Sivagangai District.

2.The case of the prosecution in brief in Crime No. 211 of 2022:-

The de-facto complainant namely Gunasundari lodged a complaint stating that on 26/09/2021, when she along with her son were cutting and removing Karuvalan trees, one Irulappan and his sons were also cutting and removing the



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Karuvalan tress in the property. It was objected by them. For which, they replied that the property is a poramboke property, over which the de-facto complainant cannot make any objection. At about 03.30 am, in the evening, in view of the above said previous enmity, the accused came to her house with iron rod and caused damage to the roof fixed in the house. When that was enquired and objected, she was assaulted by them with iron rod. The neighbours gathered and the de-facto complainant was taken to the hospital. On the basis of the above said occurrence, a case in Crime No.211 of 2021 was registered for the offences under sections 427, 294(b), 379, 326 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 cognizance in CC No.162 of 2022 by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, Sivagangai District.

3.Now seeking quashment of the same, this petition has been filed on the ground that no specific overtact has been attributed against the petitioners; Even as per the accident register, the injuries were simple in nature.



4.Heard both sides.

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5.It is a case of assault and abuse in filthy language. There is a specific allegation to the effect on 26/09/2021, the present occurrence said to have been taken place. Subsequent occurrence said to have been taken place, on 30/10/2021, wherein the father of the petitioners namely Irulappan is the de-facto complainant. The case was registered in Crime No.234 of 2021 against the present de-facto complainant and 3 others. In the above said case, Irulappan has stated that on 30/10/2021 at about 09.00 am, when he was working in the land, the accused namely the de-facto complainant herein and others trespassed into the properties and caused assault with wooden log and broom stick, aruval, etc, causing grievous injuries. In that case also, final report was filed charging the de-facto complainant and others under sections 294(b), 324 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. It is also pending before the concerned court in CC No.244 of 2022 and posted for trial.

6.So far as this case is concerned, it was registered on 27/09/2021 under sections 427, 294(b), 324 326 IPC and section 4 of the Tamil Nadu Prohibition of



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Harassment of Women Act @ 427, 294(b), 379, 326 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

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7. Reading of both the complaints shows that it is a long standing enmity between the parties over the possession of the property.

8. The learned counsel appearing for the petitioners would submit that even as per the allegation made in the complaint, the occurrence said to have been taken place in the field, where the Karuvalan trees standing. But in the rough sketch, the place of occurrence is noted near Bakkiyalakshmi's house. So according to him, the prosecution itself is not clear with regard to the place of occurrence and the place of occurrence is shifted from the disputed property to the place near the Bakkiyalakshmi's house. This according to him, falsifies the prosecution case itself. So, according to him, there is no material to proceed against the petitioners.

9. But this aspect cannot be taken into account for consideration at this stage. It is a matter for trial. Whether actually the occurrence took place has to be decided only on the basis of the evidence. But the fact



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remains that the de-facto complainant sustained injuries and damage was caused to the house. She was also admitted in the hospital and the Doctor, who treated the de-facto complainant was also examined and the Wound Certificate was also obtained. So, *prima facie* materials are available to proceed against the petitioners. Factual circumstance cannot be taken into account at this stage. It is a case of trial. Except stating that the above said factual aspect, no other circumstance were brought on record. So Crl.OP(MD)No.10338 of 2023 is liable to be dismissed and accordingly, it is dismissed.

10.The case of the prosecution in Crime No.234 of 2021 is that the de-facto complainant namely Gunasundarai lodged this complaint stating that on 30/10/2021 at about 09.10 am, the accused namely Ramkumar, Irulappan and others, while working on their field, damaged the pillar stone planted by the de-facto complainant in their field, which was objected by her. At that time, Ramkumar caused assault with aruval. Other persons caused injury with deadly weapons, causing injury to various parts of the body. She was taken to the hospital by her husband. Based upon the complaint, a case was registered in Crime No.234 of 2021 for the offences under sections 294(b), 324 IPC and section 4 of the Tamil Nadu Prohibition of



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Harassment of Women Act, 2002. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC No.163 of 2022 by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, Sivagangai District.

11. Seeking quashment of the same, this petition has been filed by Ramkumar and 3 others on the ground that there is no specific overtact against the petitioners; Even as per the final report, only simple injuries were sustained by the complainant's party.

12. Heard both sides.

13. It appears that it is a case and counter case. The occurrence said to have been taken place, on 30/10/2021 at about 09.10 hours, wherein, it has been stated that on that date, trouble has arisen between the accused and the de-facto complainant's party near the field. Similarly, on the basis of the complaint given by Irulappan, a case in Crime No.233 of 2021 was registered against the de-facto complainant Gunasundari and others. In that case also, investigation has been completed and final report was also filed. So, it is seen that it is a case and counter case. But without referring to the



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counter case, in both matters, final reports have been filed without following the procedures as set out in PSO-588A. Even though this ground is not taken in the grounds of petitions, at the time of argument, it was mentioned, apart from other factual aspects with regard to the change of place of occurrence, nature of the injuries sustained by the de-facto complainant, etc.

14.Even though, proper procedure was not followed by the Investigating Officer, at the time of investigation to find out, who are the aggressors, but as mentioned earlier, it is seen that continuous trouble exists between the parties over the possession of the property and dispute.

15.As mentioned above, first occurrence took place on 20/09/2021 followed by this case and counter case. Several continuous occurrences have taken place between the parties, causing assault and damage, etc. So, I am of the considered view that all the three cases must be tried simultaneously, to find out, who are the aggressors and what was the root cause for the issue, on 30/10/2021.

16.Even though, the learned counsel appearing for the accused has stated that changing of the occurrence



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place itself creates doubt in the prosecution story, but in the facts and circumstances of the case, I am of the considered view that all the three matters must be simultaneously tried. So without taking into account the mistake committed by the Investigating Officer, at the time of investigation, this criminal original petition is also liable to be dismissed of course with some direction.

17.In the result, these criminal original petitions are **dismissed**. But however, there shall be a direction to the trial court to conduct simultaneous trial in all three matters and disposed of the same on the same day itself. Consequently, connected Miscellaneous Petitions are closed.

28/06/2023

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

- 1.The District Munsif-cum-Judicial Magistrate,
Thiruppuvanam,
Sivagangai District.
- 2.The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai 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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