



CrI.O.P.(MD) No.12662 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.O.P.(MD) No.12662 of 2020

and

CrI.O.P(MD)Nos.5755 & 5756 of 2020

1.Krishnamurthy
2.R.Rajkumar
3.Kodeeshwari

...Petitioners/A1 to A3

Vs.

1.State rep. by
The Inspector of Police,
Virudhunagar West,
Virudhunagar District.
(Crime No.264 of 2017)

... 1st Respondent / Complainant

2.Mareeswari

... 2nd Respondent/Defacto complaint

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.310 of 2019 on the file of the learned Judicial Magistrate Court No.1, Virudhunagar and quash the proceedings as against the petitioners.



Crl.O.P.(MD) No.12662 of 2020

For Petitioners : Mr.I.Prabhu

For Respondents : Mr.R.Meenakshi Sundaram
Addl. Public Prosecutor (for R1)

No appearance for R2

ORDER

The Criminal Original Petition is filed by the Accused Nos.1 to 3 in C.C.No.310 of 2019 on the file of the learned Judicial Magistrate No. 1, Virudhunagar, to quash the said proceedings.

2.The allegations against the petitioners are that the first petitioner is the husband of the defacto complainant; the second petitioner is the friend of the first petitioner.

3.It is alleged in the charge sheet that on 17.03.2017 at about 08.30 p.m, when the defacto complainant was walking on the road in between Virudhunagar -Vadamalaikuruchi, all the petitioners/A1 to A3 had abused the defacto complainant. The first petitioner is said to have slapped the defacto complainant and the third petitioner is said to have pulled the



Crl.O.P.(MD) No.12662 of 2020

WEB COPY

hair of the defacto complainant and attacked her and the second petitioner is also said to have attacked the defacto complainant. The petitioners were charged for the offences under Sections 341, 294(b), 323, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

4.The learned counsel for the petitioners submitted that because of the matrimonial dispute, the defacto complainant gave this false case. The first petitioner was working in a College of Pharmacy in some other place at the time of occurrence. The allegation that he had attacked the defacto complainant is false. The defacto complainant was having illegal relationship with another person and when the first petitioner questioned, she had come up with this false case. The learned counsel for the petitioners further submitted that divorce case in HMOP No.97 of 2016 was filed by the first petitioner and the same is pending. The allegations besides are false and motivated only to wreck vengeance against the petitioners.



Crl.O.P.(MD) No.12662 of 2020

WEB COPY

5.The learned Additional Public Prosecutor submitted that the main points raised by the petitioners are that the first petitioner has pleaded Alibi stating that he was working in a college at the time of occurrence and hence, he could not have committed the offence. This has to be established by him only in the trial. Further, the defacto complainant had taken treatment and doctor, who examined her, has been examined to establish the injuries suffered by the defacto complainant. He therefore, submitted that *prima facie* case is made out and hence, prayed for dismissal of the quash petition.

6.On perusal of the impugned charge sheet, this Court finds that *prima facie* allegations are found in the charge sheet. The points raised by the petitioners have to be only adjudicated in the trial. Hence, this Court is not inclined to quash the impugned charge sheet.

7.The learned counsel for the petitioners had made an endorsement that he is not pressing the quash petition in respect of the third petitioner.



Crl.O.P.(MD) No.12662 of 2020

WEB COPY

Hence, the criminal original petition in respect of the third petitioner Kodeeswari is dismissed as not pressed. The criminal original petition in respect of the petitioners 1 and 2 is dismissed for the abovesaid reasons. However, the appearance of the petitioners 1 and 2 before the Trial Court is dispensed with unless the Trial Court deems their presence necessary for the progress of the trial. Consequently, connected miscellaneous petitions are closed.

03.02.2023

skn

NCC:Yes/No

Internet:Yes/No

Index:Yes/No

To

- 1.The Judicial Magistrate Court No.1,
Virudhunagar.
- 2.The Inspector of Police,
Virudhunagar West,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD) No.12662 of 2020

SUNDER MOHAN, J.

skn

CrI.O.P.(MD) No.12662 of 2020
and
CrI.O.P.(MD)Nos.5755 & 5756 of 2020

03.02.2023