



Crl.R.C.(MD).No.758 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.03.2023

Delivered On: 14.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.758 of 2022
and Crl.M.P.(MD).No.9296 of 2022

1.Palanichami

2.Gopal

... Petitioners/Accused Nos.5 & 6

Vs.

The State Rep. by
The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.
(Crime No.276 of 2015)

.. Respondent/Complainant

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order, dated 19.05.2022, made in Cr.M.P.No.993 of 2017 in S.C.No.83/2017 pending before the Chief Judicial Magistrate Court, Pudukkottai, and set aside the same.

For Petitioner : Mr.K.C.Maniyarasu

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor



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ORDER

This Criminal Revision Case has been filed against the order, dated 19.05.2022, made in Cr.M.P.No.993 of 2017 in S.C.No.83/2017 pending before the Chief Judicial Magistrate Court, Pudukkottai.

2.The facts in brief:

The defacto complainant lodged a complaint stating that one Krishnan Sabnurar was doing manufacturing and selling firewood coal business. Because of the above said firewood coal business smoke caused nuisance to the villagers in the nearby area. On the complaint made by the Villagers, the officials from the Pollution Department made enquiry on 09.07.2015 and asked the above said person not to do such business in that place. Because of that the above said Krishnan Samburar and their family members were enmical. At the instigation of the Palanisamy and Gopal, at about 3.45 p.m., the above said Krishnan Samburar, his son namely Muthuvel, wife Veerayee and daughter-in-law came to the place caused assault with stick and aruval to the defacto complainant and others. At that time, neighbours gathered, the accused ran way from that place.



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3.On the basis of the complaint, the case was registered and the accused persons were charge sheeted. The trial was undertaken and during the trial process all the accused filed separate applications in Crl.M.P.Nos. 993 and 994 of 2017, seeking discharge from the prosecution and charges. Both were heard together by the trial Court and both the petitions were dismissed on 19.05.2022. Against which, this revision has been preferred by the accused Nos.5 & 6.

4.For the purpose of deciding the issue, the background facts need to be kept in mind. The accused 5 and 6 namely Palanisamy and Gopal were not present in the place of occurrence at that time. In the complaint itself it has not been stated that only at the instigation of this petitioners, the assault was made by the other accused. But, in the course of investigation further statement has been recorded, wherein, it has been stated that only at the instance of this petitioners the above said assault was made by the co-accused persons. This has been greatly objected by the petitioner, stating that only to wreck vengeance, in further statement recorded implication has been made on that ground. The complaint was given on 11.07.2015 and further statement was recorded on 21.11.2015. At that time only the defacto complainant has stated that these petitioners were responsible for the above



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said assault. But, nowhere in the statement he stated about the enmity between these petitioners and the defacto complainant. So the question which arises for consideration is whether the bald allegations in the course of the further statement are sufficient enough to frame charges against these petitioners also.

5. The learned Additional Public Prosecutor would submit that since further statement has been recorded implicating these petitioners also into the above said offence and trial is also going to be concluded, the petition may be dismissed with the direction to the trial Court to expedite the trial process. In respect of the very same occurrence a counter case or counter complaint has been registered on the basis of the complaint given by Krishnan, who is the accused in Crime No.276 of 2015. He has stated that on the particular date of occurrence only, they were assaulted by the counter parties. Reading of both the FIRs shows that there was trouble between the parties, over the business that was done by Krishnan. There was exchange of assault, blows, etc., So in the issue how these petitioners are involved is nowhere stated and even during the course of investigation, no material has been collected to show how these petitioners also involved in the above said issue for what reasons they have abetted the commission of offence.



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6. Even though the counsel for the petitioner rely upon various judgments, this background facts is sufficient enough to allow this petition. So I am of the considered view that the proceedings that has been initiated against these petitioners is clearly abuse of the process of the law and court. A stray sentence in the further statement and as well as in the final report are not sufficient materials to frame charges, especially, absolutely, when no material has been collected to show the reason for the above said abetment or the enmity between the defacto complainant party and the petitioners. So on the sole ground this petition is liable to be allowed.

7. Accordingly, this revision petition is allowed. The order passed in Crl.M.P.No.993 of 2017 in S.C.No.83 of 2017, dated 19.05.2022, on the file of the Chief Judicial Magistrate, Pudukkottai, is hereby set aside in respect of these petitioners and the petitioners/accused No.5 & 6 are discharged from the alleged offences under Sections 294(b), 323, 324, 506(ii) of IPC

and Section 307 r/w 34 IPC and Section 109 IPC. Consequently, connected miscellaneous petition is closed.



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Index : Yes / No
Internet : Yes / No
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To

- 1.The Chief Judicial Magistrate, Pudukkottai.
- 2.The Inspector of Police,
Alangudi Police Station,
Pudukkottai 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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