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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.19784 of 2022

and

Cr1.MP(MD)Nos.13604 and 13605 of 2023

1.Muniyandi @ Daniel
2.Samuthiram
3.Karpagakani
4.Sridharan
5.Deivakuruvammal
6.Lavanya
7.Samraj
8.Ponmadathi

: Petitioners/A2 to A9

Vs.

1.State rep. by
The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.
(Crime No.83 of 2020) : R1/Complainant
2.Susila : 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 CC No.214 of 2022 on the file of the Judicial Magistrate, Sankarankovil and quash the same and pass such further orders.

For Petitioners : Mr.M.Ramu

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 case in CC No.214 of 2022 on the file of the Judicial Magistrate, Sankarankovil.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that there was enmity between herself and one Anantharaj over land dispute. On 29/04/2020 at about 08.45 pm, her sister's son namely Sankaralingam, while walking along Kanmai road, at that time, A1 and others defamed the female members of her family. Over which, Anantharaj assaulted the Sankaralingam. When it was intimated to them, she along with others went to the Anantharaj's house, enquired and objected the abusive and defamatory language used by the accused persons. At that time, they abused them in filthy language, A1 assaulted with shovel. When she tried to intervene, other accused persons joined and caused assault with stick. When the neighbours gathered, the above said persons fled away from that place, making criminal intimidation. On the basis of the above said occurrence, a case in Crime No.83 of 2020 was registered for the offences under sections



188, 147, 148, 294(b), 323, 324, 506(ii) IPC and 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2022. After completing the investigation, final report was filed and it was taken cognizance in CC No.214 of 2022 by the Judicial Magistrate, Sankarankovil.

3. Seeking quashment of the same, this petition has been filed on the sole ground that it is a case and counter; regarding the very same occurrence, on the basis of the complaint given by Anantharaj, a case in Crime No.82 of 2023 was registered against the de-facto complainant and others, on 29/04/2020; Similarly, on the basis of the complaint given by the de-facto complainant, the present case has been registered in Crime No.83 of 2020; Investigation was completed and final report was also filed before the court, charging the above said accused persons under sections 188, 147, 148, 294(b), 323, 324, 506(ii) IPC and section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. According to the learned counsel appearing for the petitioners, it is a case and counter. Even according to the statement of the parties as well as the investigation, the above said occurrence said to have



been taken place at 06.45 pm and 07.00 pm, respectively. But without following the procedures contemplated in PSO-588A, this case has been investigated. If we refer the counter case, without finding that who are the aggressors, the above said final report has been filed in both matters.

5.No doubt, it is a case and counter and even without referring to the counter case, separate final reports have been filed in both cases.

6.Even though, it is a case and counter, perusal of the CD filed shows that previous occurrence said to have been taken place, one month prior to the present occurrence. In the above said occurrence, the de-facto complainant in this matter was assaulted by A1 and others, over which, a case was also registered. Perusal of the records, it is seen that 3 cases have been registered.

7.It is also further seen that Cr1.OP(MD)No.5189 of 2022 filed by the 3rd accused namely Valliammal seeking quashment of the proceedings. It was also dismissed, on 21/03/2022. At that time, it was submitted



before this court that the trial has already commenced before the trial court and some of the witnesses have been examined. On that score, the said petition was dismissed. That was ordered in the counter case in Crime No.82 of 2022 in connection with SC No.145 of 2022.

8.It is also further seen that a direction was issued to the trial court to transfer this matter to the Sessions Court for simultaneous trial along with SC No.145 of 2022. The above said order was passed, on 19/12/2022 and that petition was filed by the de-facto complainant namely Susila. When already a direction was issued for simultaneously trial, how this petition is maintainable is not explained by the petitioners. This petition was presented before this court, on 20/09/2022. But the above said order was passed, on 06/09/2022. Without disclosing the above said order, this matter has been kept pending.

9.In view of the said development, quashment is not permissible and the trial court is directed to comply the order that has been passed in CrI.OP(MD)No.20943 of 2022 for simultaneous trial. At the time of trial, the



trial court may consider, who are the aggressors. This petition ought to have been filed at the earlier opportunity. After suffering the order passed in CrI.OP(MD)No.20943 of 2022, this petition has been filed, which will not lie.

10.In the result, this criminal original petition is **dismissed**. However, considering the fact that it is a case and counter, the personal appearance of the petitioners is dispensed with before the trial court on condition that within 15 days from the date of receipt of a copy of this order, the petitioners must appear before the trial court and file an undertaking affidavit that they will appear as and when required by the court, the attested photograph must be attached in the affidavit and they must ensure that they are properly represented by an Advocate. Accordingly, CrI.M.P(MD)No.13605 of 2022 is allowed. Consequently, connected CrI.MP(MD)No.13604 of 2022 is closed.

19/06/2023

Index:Yes/No
Internet:Yes/No

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WEB COPY To,

- 1.The Judicial Magistrate,
Sankarankovil,
Tenkasi District.
- 2.The Inspector of Police,
Sankarankovil Taluk Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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Crl.OP(MD)No.19784 of 2022

19/06/2023