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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

CrI.OP (MD) No.20799 of 2022

and

CrI.MP (MD) No.14492 and 14493 of 2022

1.Poovarasam
2.Kandasamy
3.Gunasundari : Petitioners/A1 to A3

Vs.

1.The Sub Inspector of Police,
Kannivadi Police,
Dindigul District.
(Crime No.319of 2019) : R1/Complainant
2.Asaithambi : 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.107 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Athoor, Dindigul District and quash the same with regard to the petitioner/accused Nos.1 to 3 and pass such further order.

For Petitioner : Mr.S.Sundarapandian

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**O R D E R**

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This criminal original petition is filed seeking quashment of the case in CC No.107 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Athoor, Dindigul District.

2.The case of the prosecution in brief:-

The de-facto complainant had three brothers namely Samyvel, Kandasamy and Siddhan. They orally divided their ancestral properties. But that was not liked by the above said Kandasamy and his son Poovarasan. Because of that, enmity existed. On 12/09/2019 at about 04.00 pm, when the de-facto complainant was collecting fire woods near the place of occurrence, the accused came there, abused in filthy language and caused assault causing simple injuries. Over the above said occurrence, a case in Crime No.319 of 2019 was registered for the offences under sections 294(b), 323 and 506(i) IPC. After completing the formalities of investigation, final report was filed and it was taken on file in CC No.107 of 2022 by the District Munsif-cum-Judicial Magistrate, Athoor, Dindigul District.



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3. Seeking quashment of the same, this petition has been filed by all the accused persons on the ground that these petitioners were attacked by the de-facto complainant, over which a case in CC No.106 of 2022 is also pending before the District Munsif-cum-Judicial Magistrate, Athoor, Dindigul District; Suppressing the above said registration of the complaint and final report, this false case has been registered against them and without proper investigation, final report has been filed.

4. Heard both sides.

5. It is a case and counter case.

6. CD file in CC No.106 of 2022 as well as the subject matter in CC No.107 of 2022 have been called for and perused. Wherein we find that in both cases, the date of occurrence is stated to be on 14/09/2017. On the basis of the complaint given by the first petitioner herein namely Poovarasan, a case in Crime No.320 of 2019 was registered against the second respondent herein namely Asaithambi, his son Dharmaraj and others. In the counter



case, investigation was completed and final report was also filed and taken cognizance in CC No.106 of 2022.

7. Similarly, on the basis of the complaint given by the second respondent, the present FIR was registered in Crime No.319 of 2019 against these petitioners.

8. Reading of both the final reports shows that previous enmity exists between the petitioners and the second respondent over sharing of the ancestral properties. On the particular date of occurrence, trouble has arisen between two groups of people. When the petitioners herein cut and tried to remove the standing tress in the above said property, both of them exchanged abusive words, causing assault to each other and causing injuries to each other. It appears that both of them sustained injuries. Both of them admitted in the hospital. So, naturally the Investigating Officer ought to have undertaken the investigation in a proper manner and find out, who are the aggressor. Even without referring the counter case, final report has been filed as if it is an independent and separate occurrence, which is not permissible in view of Police Standing Order 899A.



9. On the sole ground, this petition is liable to be allowed.

10. In the result, this criminal original petition is **allowed**. The proceedings in CC No.107 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Athoor, Dindigul District, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

27/04/2023

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

1. The Sub Inspector of Police,
Kannivadi Police,
Dindigul District.
2. The Sub Inspector of Police,
Kannivadi Police Station,
Dindigul 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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Crl.OP (MD) No.20799 of 2022

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