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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 22/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP (MD) No.20753 of 2022

and

CrI.MP (MD) Nos.14453 and 14454 of 2022

1.Shyamprakash

2.Balachandran

: Petitioners/A1 and A2

Vs.

1.The Deputy Superintendent of Police,
Virudhunagar Division,
Virudhunagar.

2.The Inspector of Police,
Virudhunagar Rural Police Station,
Virudhunagar District.

In Crime No.35 of 2022

: R1 and R2/Complainants

3.M.Sundaramoorthy

: R3/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the charge sheet in CC No.51 of 2022 on the file of the PCR Court, Srivilliputtur, Virudhunagar District in Crime No.35 of 2022 on the file of the 2nd respondent and to quash the same as illegal and pass such further or other orders.



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For Petitioners : Mr.K.Dinesh
For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor
For 3rd Respondent : Mr.S.Sivaprakash
(Legal Aid Counsel)

O R D E R

This criminal original petition is filed seeking quashment of the charge sheet in CC No.51 of 2022 on the file of the PCR Court, Srivilliputtur, Virudhunagar District.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he belongs to SC community. There is some previous enmity between him and one Shyamprakash in the Union matter, since he is working in the Railway Department as MDS. Because of the above said issue, the first petitioner Shyamprakash and the de-facto complainant left the above said Association and joined some other Association. On 10/03/2022, when he was riding the two wheeler on the Pullalakkottai road near Muniyandikovil, the first petitioner Shyamprakash and others followed him, in another two wheeler, intercepted, abused and



under section 294(b) and 323 IPC are not attracted, similarly, according to him, the offence under the Special Act also not attracted.

4.Per contra, the learned Additional Public Prosecutor would submit that there is specific allegation to the effect that the petitioners assaulted the de-facto complainant and caused injury and he has also admitted in the Government Hospital. The Doctor, who treated the injured cited as a witness. Wound Certificate was also collected. According to him, the trial must be permitted to go on to its logical conclusion. What are the offences made out is a matter for consideration at the time of framing of charge. With regard to the motive also, since factual issues are involved, this court cannot take into account. Reading of the statement of the Medical Officer is sufficient to dispose this petition. He has stated in his statement that on examination, he found injuries on the head and right thumb region. But later the de-facto complainant before completing the treatment, absconded. So the final opinion could not be given by him. Even though, he absconded from the Hospital, *prima facie* materials shows that the de-facto complainant sustained



injuries. Who caused the injury is a matter for consideration by the trial court. Only the factual issue has been taken in this matter. Whether the offences under sections 294(b) and 323 IPC are attracted is a matter for consideration in the trial.

5. But no doubt that neither in the complaint nor in the final report, it has been mentioned the specific overact alleged to have been played by the de-facto complainant against these petitioners in making abuse. That can be taken into account by the trial court at the appropriate time. The learned counsel appearing for the petitioners would rely upon the judgment of this court passed in the case of **S.Velraj & others Vs. State & others (Cr1.OP Nos.845, 850 and 852 of 2021, dated 09/03/2023)**. The facts are entirely distinguishable in nature. In the above said case, there was no allegation of assault, injury, etc. Only the base of the complaint, it has been taken into account. But here, absolutely, we are encountering the offence under section 323 IPC. As mentioned earlier, *prima facie* materials are also available. So, the above said decision may not be applicable to the present case. So, I find no reason to quash the proceedings.



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6. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

22/06/2023

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

1. The PCR Court,
Srivilliputhur, Virudhunagar.
2. The Deputy Superintendent of Police,
Virudhunagar Division,
Virudhunagar.
3. The Inspector of Police,
Virudhunagar Rural Police Station,
Virudhunagar District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.OP (MD) No.20753 of 2022

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