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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21/03/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.23049 of 2022

and

Cr1.MP(MD)No.16344 of 2022

1.Ramar

2.Muthu

: Petitioners/A1 and A2

Vs.

1.State rep. by

The Inspector of Police,
Rajathani Police Station,
Theni District.

: R1/Complainant

2.Kaniarasan

: R2/De-facto Complainant

Prayer:- Criminal Original Petition is filed under section 482 of the Criminal Procedure Code, to call for the records relating to the impugned final report in CC No.289 of 2022 on the file of the Judicial Magistrate, Aundipatti and quash the same.

For Petitioners : Mr.M.Jerin Mathew

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

For 2nd Respondent : Mr.C.M.Mari Chelliah Prabhu

**ORDER**

This criminal original petition has been filed seeking quashment of CC No.289 of 2022 on the file of the Judicial Magistrate, Aundipatti.

2.The facts in brief:-

Enmity exists between the de-facto complainant family and accused over laying of a bridge. On 05/04/2022 at about 01.00 pm, the de-facto complainant along with his father was standing in the land, at the time, A1 and A2 came there, challenged them, abused in filthy language, assaulted and criminally intimidated. Based upon the above said occurrence, a case in Crime No.80 of 2022 was registered for the offences punishable under sections 294(b), 323 and 506(ii) IPC. After completing the formalities of investigation, final report was filed before the trial court and it was taken as CC No.289 of 2022. Now the petitioners are facing the charges before the trial court.

3. Seeking quashment of the same, both the accused are before this court.

4. Heard both sides.



5.It is a case and counter. These petitioners are facing charges as noted above in CC No.289 of 2022 and counter case has been registered in Crime No.79 of 2022. Now the final report has been filed in the counter case and taken cognizance in CC No.315 of 2022.

6.The learned counsel appearing for the petitioners would submit that it is a case and counter case and without following proper procedure as prescribed in the Police Standing Order, the Investigating Officer has filed the final reports, in both cases, even without verifying or investigating, who are the aggressors. This is the only point that has been raised by the petitioners.

7.Reading of the complaint, in both cases, it is seen that trouble has arisen between the parties, on 05/04/2022 at the time laying a bridge. A counter complaint has been given by the first petitioner herein against the de-facto complainant namely Kaniyarasan. He has shown as A4 in Crime No.79 of 2022, apart from the other persons.

8.Now coming to the final report that has been filed, we see that without even referring the counter case, final report has been filed making allegations against both the parties that they have committed the offences as noted above. The Investigating Officer ought to have investigated



the matter as per the procedure and would have found out, who are the aggressors. But without finding out the above said fact, he has filed the final report, in both matters, even without referring to the counter case, which is not permissible in law. On that sole ground, the entire prosecution is bad in law and liable to be quashed.

9. Time and again, it has been addressed and impressed upon the Investigating Officer to adopt proper procedure, while investigating the case and counter case, but it has not been taken into account by the officials.

10. In the result, this criminal original petition is **allowed**. The entire proceedings in CC No.289 of 2022 on the file of the Judicial Magistrate, Aundipatti, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

21/03/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Aundipatti.
- 2.The Sub Inspector of Police,
Rajathani Police Station,
Theni 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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