



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Cr1.OP (MD) No.23097 of 2022

and

Cr1.MP (MD) No.16383 of 2022

Geetha @ Geethanjali : Petitioner/A3

Vs.

1.The Sub Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni District.
(Crime No.1196 of 2021) : R1/Complainant

2.Sethumani : R2/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 impugned charge sheet in CC No.136 of 2022 on the file of the Judicial Magistrate, Bodinayakkanur and quash the same and pass such other orders.

For Petitioner : Mr.P.Mahendran

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

**O R D E R**

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This petition has been filed seeking quashment of the case in CC No. 136 of 2022 on the file of the Judicial Magistrate, Bodinayakkanur, Theni District.

2.The case of the prosecution in brief:-

The de-facto complainant is residing in a house situated near Muneeswaran Kovil in Parameasivan Kovil Street, Bodinayakkaur. It is an ancestral house. The accused are residing in the another portion of the house. They are closely related. To perform 30th day of funeral rites to one Raju @ Raja, the mother demanded white washing the house, but the accused objected and they demanded partition of the property. Over the above said enmity, on 02/01/2022 at about 08.00 pm, the accused picked up quarrel with the de-facto complainant, abused her in filthy language, caused assault, causing simple injury. They have also criminally intimidated. Over the above said occurrence, a case in Crime No.1196 of 2021 has been registered for the offences under sections 294(b), 323, 324 and 506(ii) IPC. After completing the investigation, final report was filed and it was taken cognizance in CC No.136 of 2022 by the trial court.



3. Now seeking quashment of the final report, this petition has been filed by A3 on the ground that no material has been collected during the course of investigation to implicate her into the above said occurrence and even proper Wound Certificate was not obtained, since the injured stated to have absconded from the hospital; Apart from that, it is also stated that none of the allegations mentioned in the final report attract any of the ingredients mentioned punishable under sections 294(b), 323, 324 and 506(ii) IPC

4. Heard both sides.

5. It is a case of assault. The ground on which, this petition came to be filed is that no one sustained any injury in the above said alleged occurrence, later absconded from the hospital; So in the absence of any such proper material, the prosecution itself is bad under law. This ground can not be taken for answering. The issue the age of the petitioner is the only point to be decided for consideration.



6.The background facts shows that there is continuous trouble between the members of the brothers over the partition of the property now under dispute. It is also seen that both resided side by side in the very same house. On the particular date of occurrence, the mother demanded for white washing the house to perform 30th day funereal rites to the deceased. At that time, the above said occurrence said to have been taken place. Whether the above said occurrence is true or not cannot be a matter for consideration by this court. It is a matter for consideration by the trial court. When there is a allegation of assault, it must be taken in its logical conclusion.

7.Perusal of the materials shows that injured was admitted in the Government Hospital, Bodi, but why absconded from the hospital is not known. It can be explained by the prosecution during the course of trial. The Assistant Surgeon attached to Bodi Government Hospital was examined during the course of investigation. His statement was also recorded. The veracity of the above said offence can be tested only during the course of trial. The petitioner has also produced the birth



The date of occurrence is stated to be on 02/08/2021. She was aged about 14 years, at the time of the occurrence. So she ought to have proceeded under the provisions of the Juvenile Justice (Care and Protection) Act. But it appears that even though knowing the correct age of the petitioner, at the time of alleged occurrence, final report has been filed showing her as adult, which per se illegal.

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9. In the result, this criminal original petition is allowed. The impugned charge sheet in CC No.136 of 2022 on the file of the Judicial Magistrate, Bodinayakkanur is hereby quashed against the petitioner alone. Consequently, connected Miscellaneous Petition is closed.

25/04/2023

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

1. The Judicial Magistrate,
Bodinayakkanur,
Theni District.
2. The Sub Inspector of Police,
Bodinayakkanur Town Police Station,
Bodinayakkanur,
Theni 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.23097 of 2022

25.04.2023



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