



Crl.O.P.(MD) No.8136 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.8136 of 2021

and

Crl.M.P.(MD) Nos.4194 & 4195 of 2021

1.Samathuvamary @ Samuthiramary

2.Suthakar

3.Prakash

... Petitioners

Vs.

1.The State rep. by
The Inspector of Police,
Siruganur Police Station,
Trichy District.
(Crime No.218 of 2018)

2.Pandiaraj

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in C.C.No.87 of 2020 on the file of the Judicial Magistrate Court, Lalgudi and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.T.Lenin Kumar

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)



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Crl.O.P.(MD) No.8136 of 2021

ORDER

Seeking to quash the final report in C.C.No.87 of 2020 on the file of the Judicial Magistrate Court, Lalgudi, the present Criminal Original Petition is filed by accused 2, 4 and 5.

2. The case of the prosecution in a nutshell is as follows:

(i) On 16.08.2018, at about 07.00 p.m., when the second respondent/*de facto* complainant was in his house with his wife and son, his elder brother Mathalairaj and other accused trespassed into their house and locked all of them inside the house. However, the *de facto* complainant escaped and when he confronted the accused, they attacked him with a wooden reaper, as a result of which, he sustained injuries on his head. When the *de facto* complainant's son prevented the accused from attacking his father, he also sustained injuries.

(ii) Both the *de facto* complainant and his son were hospitalized and Dr.Vithiyabharathi, Medical Officer attached to Government Hospital, Srirangam, Trichy gave treatment to both the injured persons and issued Wound Certificates stating that the injuries sustained by them are simple in nature.



Crl.O.P.(MD) No.8136 of 2021

(iii) Based on the complaint lodged by the *de facto* complainant on 22.08.2018, F.I.R. in Crime No. 218/2018 was registered by the Sub-Inspector of Police, Siruganur Police Station against 10 accused for the offences punishable under Sections 147, 448, 452, 323 & 506(2) of IPC. The Sub-Inspector of Police after concluding investigation filed a final report only against 5 accused including the present petitioners before the Judicial Magistrate Court, Lalgudi in C.C.No.87 of 2020 for the offences punishable under Sections 147, 448, 452, 323 & 506(2) of IPC.

3. Mr.T.Lenin Kumar, learned counsel for the petitioners relying on the decision of the Hon'ble Supreme Court in ***State of Haryana Vs. Ch.Bhajan Lal and others*** reported in ***AIR 1992 SC 604 : (1992) 3 SCR 735 (SC)*** would contend that even if the allegations made in the First Information Report (F.I.R.) are taken at their face value and accepted in their entirety do not *prima facie* constitute any offence, the F.I.R. should be quashed. According to him, in the F.I.R., there is no specific overt act as against the present petitioners. However, the *de facto* complainant and other witnesses had exaggerated the incident before the police while recording their statements under Section 161(3) of Cr.P.C.



Crl.O.P.(MD) No.8136 of 2021

4. It is his further contention that though the occurrence allegedly took place on 16.08.2018, the complaint was lodged on 22.08.2018 and the F.I.R. was registered on 25.09.2018 and therefore, there is a delay in lodging the complaint and registering the F.I.R. He also pointed out the contradictions between the F.I.R. and Section 161(3) of Cr.P.C. statements of all the witnesses and contended that the final report should be quashed.

5. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Crl. Side) appearing for the first respondent police, on instructions, would contend that the Sub-Inspector of Police after conducting proper investigation filed the final report and therefore, there are no valid reasons to quash the same. His further contention is that the petitioners and the *de facto* complainant are related to each other and there is a dispute between them over a land belonging to their family. He would also contend that the police had registered two F.I.Rs., one against the present petitioners and another against the *de facto* complainant and others.

6. In the complaint, though the sequence of events was narrated cogently, the overt act committed by each and every accused has not been



Crl.O.P.(MD) No.8136 of 2021

indicated. However, all the witnesses including the *de facto* complainant while giving statements under Section 161(3) of Cr.P.C. had spelt out the offences committed by each and every accused. In fact, the police had deleted 5 accused while filing final report in the present case in C.C.No.87 of 2020. This shows that the police had conducted proper investigation and laid the final report before the Judicial Magistrate Court, Lalgudi.

7. The decision of the Hon'ble Supreme Court in ***State of Haryana Vs. Ch.Bhajan Lal and others*** reported in ***AIR 1992 SC 604 : (1992) 3 SCR 735 (SC)*** relied on by the learned counsel for the petitioners is for quashing of F.I.R. In the instant case, the police after conducting investigation had laid the final report. Further, a perusal of the final report which includes the statements of witnesses recorded under Section 161(3) of Cr.P.C. *prima facie* shows the commission of offence under Sections 147, 448, 452, 323 & 506(2) of IPC by the accused.

8. Merely because the complaint has been lodged on 22.08.2018 for the occurrence that took place on 16.08.2018, the final report cannot be quashed and at this juncture, it is pertinent to point out that both the parties are closely related to each other and therefore the *de facto*



Crl.O.P.(MD) No.8136 of 2021

complainant would have initially hesitated for giving a police complaint.

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9. In the circumstances, the present Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

20.02.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To

- 1.The Judicial Magistrate,
Lalgudi, Trichy.
- 2.The Inspector of Police,
Siruganur Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.8136 of 2021

R.HEMALATHA, J.

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