



CRL OP(MD)No.11671 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.02.2024

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THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL OP(MD)No.11671 of 2020
and
Crl.M.P(MD)No.5330 of 2020

1.S.M.Michael

2.J.Vinoth

3.J.Pakkiyam

4.S.Germonse

... Petitioners

Vs

1.State represented by
The Sub Inspector of Police,
Manamadurai Police Station,
Manamadurai,
Sivagangai District.

2.Raja

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the impugned charge sheet laid in C.C.No.97 of 2020 on the file of the Additional District Munsif cum Judicial Magistrate Court, Manamadurai and quash the same.

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For Petitioners : Mr.K.Gokul

For R1 : Mr.M.Sakthi Kumar

For R2 : Government Advocate (crl.side)
: Mr.S.Anandha Raja Gopal,

ORDER

Seeking to quash the final report in C.C.No.97 of 2020 on the file of the Additional District Munsif cum Judicial Magistrate Court, Manamadurai, the present petition is filed.

2.The brief facts of the case of the prosecution in a nutshell are as follows:-

One Joseph and his elder brother (A1) were having dispute over their family properties. The first accused Michael was doing farming in the disputed land and when this was objected to by Raja's (defacto complainant) father Joseph, the first accused abused him in filthy language on 12.10.2019 at about 9.45 a.m. All the accused attacked Raja and his father Joseph and also threatened them that they would kill them. The defacto complainant Raja lodged a complaint with the Inspector of



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Police, Manamadurai Police Station, which came to be registered as FIR in Crime No.383 of 2019 on 14.10.2019. The Sub Inspector of Police, after conducting investigation, laid a final report in C.C.No.97 of 2020 before the Additional District Munsif cum Judicial Magistrate, Manamadurai against the accused (present petitioners) for the alleged offences punishable under Sections 294(b), 323, 324, 342 and 506(ii) IPC. The learned Judicial Magistrate took cognizance of the offence and issued summons to the accused. Thereafter, the accused approached this Court and filed the present criminal original petition. An order of stay was granted at the time admission by this Court in this petition on account of which C.C.No.97 of 2020 is kept pending.

3. Mr.K.Gokul, learned counsel appearing for the petitioners would contend that there are several civil cases pending between Michael and his brother Joseph and that the defacto complainant is a notorious rowdy. His further contention is that the accused did not attack the defacto complainant and his father Joseph as alleged by the prosecution and therefore, the final report in C.C.No.97 of 2020 is liable to be quashed.



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4. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Crl.Side) would contend that the police after conducting proper investigation laid a final report and there is no valid ground to quash the same.

5. Mr.S.Anandha Raja Gopal, learned counsel appearing for the defacto complainant would contend that there are four eye-witnesses to the occurrence, out of which, two are injured witnesses. His specific contention is that the defacto complainant is not a notorious person as alleged by the petitioners and therefore, prayed for dismissal of the present petition.

6. A perusal of the FIR and the final report prima facie shows that all the accused attacked the defacto complainant Raja and his father Joseph on 12.10.2019 and the FIR was registered on 14.10.2019 on the basis of the complaint given by Raja, the de-facto complainant. The police took up the investigation and sent the injured witnesses to the Government Hospital Manamadurai. Dr.Indumathi and Dr.Rajarajan



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examined the injured witnesses on 12.10.2019. Dr.Rajarajan issued Wound Certificate stating that the injury sustained by Joseph is a simple in nature. However, Dr.Indumathi could not give any Wound Certificate for the defacto complainant Raja as he absconded.

7. The learned Judicial Magistrate took cognizance of the offence and a cursory look at the statements of the witnesses recorded by the police under Section 161(3) Cr.P.C. including the injured witnesses *prima facie* shows that the accused had committed the offences punishable under Sections 294(b), 323, 324, 342 and 506(ii) IPC. Merely because several civil suits are filed by the defacto complainant's father Joseph and the first accused Michael in various Courts, the present final report cannot be quashed, as there are specific overt acts against the accused in the statements of the witnesses under Section 161(3) Cr.P.C. The truth or otherwise of the allegations can be gone into only during the course of trial. The news item in “Dhina Thanthi” daily dated 22.03.2014 stating that Raja is a notorious rowdy cannot have any direct implication in the present petition.



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8. In these circumstances, the present Criminal Original Petition stands dismissed. The personal appearance of the petitioners are dispensed with. However, they should appear before the concerned Court as and when their presence is required. Consequently, connected miscellaneous petition is closed.

06.02.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
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To

- 1.The Additional District Munsif cum Judicial Magistrate,
Manamadurai.
- 2.The Sub Inspector of Police,
Manamadurai Police Station,
Manamadurai,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA,J.

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