



Crl.O.P(MD).No.15311 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.15311 of 2020 and
Crl.M.P(MD).Nos.7410 and 7413 of 2020

1.Jegan
2.Charles
3.Athinas
4.Androse @ Johnjose ... Petitioners / Accused 3 to 6

Vs.

1. The State rep. by
The Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.

2.Gloary ... Respondents / complainants

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in C.C.No.442 of 2019 on the file of the learned Judicial Magistrate Court No.II, Padmanabhapuram, Kanniyakumari District and quash the same.

For Petitioners : Mr.M. Karunanithi

For Respondent No.1 : Mr.R.M.Anbunithi

Additional Public Prosecutor

For Respondent No.2 : Mr.C.Kishore



Crl.O.P(MD).No.15311 of 2020

ORDER

WEB COPY

This Criminal Original Petition has been filed to call for the records relating to the proceeding in C.C.No.442 of 2019 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram, Kanniyakumari District and quash the same.

2. The case of the prosecution is that due to previous motive, the petitioners herein have trespassed in to the house of the 2nd respondent / defacto complainant and pulled out her son and attacked him, when the same was questioned by the 2nd respondent, they have broken the hands of 2nd respondent and thrown out her into the sewage and also gave a life threat. Based on the complaint, case has been registered in Crime No. 211 of 2017 on the file of the first respondent police for the offences under Sections 452, 324 and 506(i) IPC as against the A1 and A2 alone. Thereafter, the first respondent Police filed a final report and the same was taken on file C.C.No.442 of 2019 on the file of the Judicial Magistrate No.II, Padhmanabapuram. Against which, the 2nd respondent herein has filed the protest petition. Without holding any enquiry or numbering the said petition, the said Magistrate has ordered a summon to the petitioners herein. In such circumstances, the petitioners herein



Crl.O.P(MD).No.15311 of 2020

have filed the present petition seeking to quash the proceeding in C.C.No.442 of 2019 on the file of the learned Judicial Magistrate Court No.II, Padmanabhapuram, Kanniyakumari as against the petitioners.

3. The learned counsel appearing for the petitioners submitted that without even numbering the protest petition, the learned Judicial Magistrate No.II, Padmanabhapuram, Kanniyakumari District has passed a non-speaking order by issuing summons to the petitioners and hence, he prays for allowing this petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. On perusal of the records it is seen that the learned Magistrate has passed a non-speaking order, without even numbering the protest petition, by issuing summon to the petitioners arraying them as accused, the same is against the law. Hence, the summon issued by the learned Magistrate in D.No.2759 / 2019, dated 23.10.2019 is hereby set aside.

6. Accordingly, this Criminal Original Petition is allowed and the



Crl.O.P(MD).No.15311 of 2020

proceeding in C.C.No.442 of 2019 on the file of the learned Judicial Magistrate Court No.II, Padmanabhapuram, Kanniyakumari District is hereby quashed as against the petitioners. The learned Judicial Magistrate No.II, Padmanabhapuram, Kanniyakumari District is directed to number the protest petition filed by the defacto complainant and dispose of the same within a period of two months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed.

20.06.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

1. The learned Judicial Magistrate Court No.II, Padmanabhapuram, Kanniyakumari District
2. The Inspector of Police,
Thiruvattar Police Station,
Kanniyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P(MD).No.15311 of 2020

A.A.NAKKIRAN, J.

Trp

**Crl.O.P(MD).No.15311 of 2020 and
Crl.M.P(MD).Nos.7410 and 7413 of 2020**

20.06.2024