

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.6403 of 2013 and
M.P.No.1 of 2013

1. M.Venkatesh
2. D.Ramesh
3. M.Pushparani

... Petitioners

Vs.

1. State by
The Inspector of Police,
B-9, Fairlands Police Station,
Salem City, Salem.
(Cr.No.1510/2008 on the file
of Azhgapuram Police Station)

2. Dr.P.Rajendran
(R2 impleaded as per order in
Crl.M.P.No.16915/18 dated 10.12.2018) ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in connection with the case in C.C.No.439/2009 now pending before the Court of the Judicial Magistrate No.V, Salem, and quash the charges insofar as the petitioners are concerned.

For Petitioners : Mr.R.Rajamohan
For Respondents : Mr.R.Surya Prakash for R1
Government Advocate(Crl.Side)

ORDER

The first respondent police has registered a case against the petitioners for the offence punishable under Sections 417, 323, 506(i) & 120(b) of IPC, based on the complaint lodged by the second respondent and after completing investigation, laid a charge sheet before the learned Judicial Magistrate No.V, Salem. The learned Magistrate has taken the charge sheet on file in C.C.No.439 of 2009. Pending the above case, all the accused have preferred this petition seeking to quash the above calendar case.

2 The learned counsel appearing for the petitioners would submit that the petitioners are tenant and the second respondent is a landlord and there is dispute between the parties. There is no allegations to attract offence charged against the petitioners. The learned Magistrate, without appreciating the fact that the dispute between the parties is purely civil in nature, has taken cognizance of the case, which is liable to be quashed.

3 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that the investigation done by the first respondent police shows that there is allegations against the petitioners to proceed the case further and the learned Magistrate also based on the materials produced by the prosecution under Section 173 of Cr.P.C. framed charges against the petitioners. Therefore, there is no reason to quash the above calender case.

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

5 The main allegations leveled against the petitioners is that the petitioners are tenant and the second respondent is landlord and during distribution of water, there was some quarrel and the petitioners have assaulted the second respondent/defacto complainant. On reading of the materials, prima facie there is allegations against the petitioners to proceed the case further and this Court is of the view that this is not a fit case to invoke power under Section 482 of Cr.P.C. and quash the calender case. The grounds raised by the petitioners are a matter for trial and that cannot be decided in this petition under Section 482 of Cr.P.C.

6 In the result, the criminal original petition is dismissed. Consequently connected miscellaneous petition is closed. However, the calender case is pending from the year 2009, the learned Judicial Magistrate No.V, Salem, is directed to dispose of the case in C.C.No.439 of 2009 within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.V, Salem.
2. The Inspector of Police, B-9, Fairlands Police Station,
Salem City, Salem.
3. The Public Prosecutor, High Court of Madras.

+1 cc to M/s.R.Rajamohan, Advocate Sr.No. 97483

AKM/03.12.19/3P-5C /

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