



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL.O.P.(MD)No.13992 of 2020

and

CRL MP (MD)No.6432 of 2020

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- 1)Mallika
- 2)Senthil Kumar
- 3)Selva Kumar

... Petitioners

vs.

- 1)The State rep. by the
Inspector of Police,
Orathanadu,
Thanjavur District.
(in Crime No.1631 of 2020)

- 2)Baghyalakshmi

... Respondents

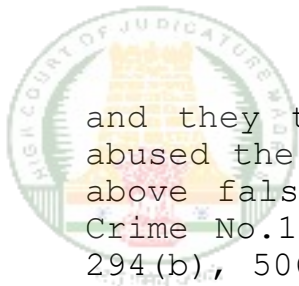
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the FIR in Crime No.1631 of 2020 on the file of the 1st respondent police and quash the same as illegal.

For Petitioners	: Mr.J.Sulthan Basha
For R1	: Mr.V.Neelakandan
	Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the FIR in Crime No.1631 of 2020 on the file of the 1st respondent police and quash the same as illegal.

2.The learned counsel for the petitioners would state that the petitioners are cultivating tenants in the property owned by one Sara Begum from 1958 to till date. While so, without intimation to the petitioners, the said Sara Begum sold out the said property to the 2nd respondent/defacto complainant and after knowing the same, they paid lease amount to the 2nd respondent without any default. On 21.09.2019, the 2nd respondent demanded to vacate the premises without giving reasonable time and though the petitioners sought time for vacating the premises, the 2nd respondent did not grant the same and in this regard, the 1st petitioner filed a suit in O.S.No.3/2020 before the District Munsif, Orathanadu and it is pending. Pending suit, the 2nd respondent had taken various steps to evict the petitioners from the above property and ultimately filed the present false complaint as if on 31.07.2020, the petitioners attempted to destroy the 2nd respondent's paddy field with Tractor



and they trespassed into the paddy field with deadly weapons and abused the 2nd respondent and made life threat to her. Based on the above false complaint, the 1st respondent has registered a case in Crime No.1631 of 2020 for the alleged offences under Sections 447, 294(b), 506(ii) and 427 IPC. Hence, this petition.

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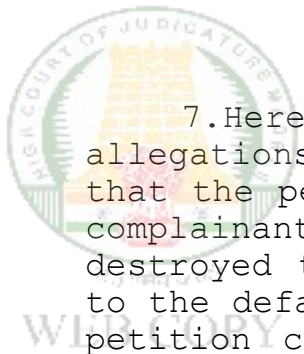
3.The learned counsel for the petitioners would contend that there is no element of criminal trespass and mischief to attract Sections 447 and 427 IPC as the petitioners are cultivating tenants for more than 70 years and in possession and enjoyment of the property as leaseholder. He would further state that to constitute offence under Section 294(b), there must be uttering or reciting obscene words in public place and here in this case, it is the private property and therefore, the above section is not attracted as held in *Saraswathi vs State of Tamil Nadu* 2002 Cr.L.J 1420 and the reading of the FIR does not disclose the existence of threat and therefore, the offence under Section 506(ii) is not made out. Thus, he would state that when the FIR prima facie does not constitute any offence against the accused, it can be quashed by this Court invoking its inherent powers under Section 482 Cr.P.C and would pray for quashing of the FIR.

4.The learned Additional Public Prosecutor would state that the defacto complainant has made specific allegations in the FIR and the same can be proved only in full-fledged trial and the respondent/Police will file the charge sheet within a time frame to be fixed by this Court.

5.Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutto. In view of the order going to be passed, notice to the 2nd respondent is not necessary.

6.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'



7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioners stating that the petitioners trespassed into the paddy field of the defacto complainant with deadly weapons such as log, sickle and iron rod and destroyed the paddy field and further, abused and gave life threat to the defacto complainant and therefore, the grounds raised in this petition can be gone into only after the charge sheet is filed. Therefore, the respondent/Police is directed to file the charge sheet before the concerned Judicial Magistrate Court within a period of three months from the date of receipt of a copy of this order.

8.With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1)The Inspector of Police,
Orathanadu,
Thanjavur District.

2)The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-24154[F] dated 07/12/2020)

ORDER MADE IN
CrI.O.P.(MD)No.13992 of 2020
DATED : 04.12.2020

VB (21.12.2020) 3P 4C