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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.8689 of 2017

&

Crl.M.P.Nos.6188 & 6187 of 2017

1. Jayadev
S/o. Srinivasan
2. Bhuvaneshwari
W/o. Jayadev Naidu
3. J.Satish
S/o. Jayadev Naidu
4. Kosala Devi
W/o.J.Satish

...Petitioners

Versus

1. The State
Rep. by the Inspector of Police
Thirunavallur Police Station
Villupuram - 607 204
(Cr.No.476/2015)
2. S.Bakthavatchalam

... Respondent/De facto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the entire records relating to the charge sheet in C.C.No.104 of 2016 on the file of the Judicial Magistrate II, Ulundurpet and quash the same.

For Petitioners

... Mr.P.Gopinath

For Respondent

... Mr.R.Kishore Kumar
Government Advocate (Crl.side)

No appearance for R2

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O R D E R

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.104 of 2016 pending on the file of Judicial Magistrate II, Ulundurpet.

2. It is submitted by the learned counsel for the petitioners that this case has been falsely foisted against this petitioner and a counter case has also been registered against the de facto complainant, who is none other than the brother of A1 and therefore, continuation of prosecution against the petitioners is nothing but a clear abuse of process of law. It is further submitted that there cannot be two charge sheets for the single occurrence involving same parties.

3. Heard the learned Government Advocate (Crl.side) appearing on behalf of the first respondent.

4. The submission of learned counsel for petitioners that two charge sheets cannot be maintained for the same occurrence, has no relevance at all as the case and counter case have been investigated by the police and the final report indicates that the de facto complainant has sustained injuries, besides the allegations of causing threat and hurt and also uttering obscene words. As the case and counter case have been properly investigated, they have to be tried by the same Court simultaneously and the trial Court has to find out who are all aggressors.

5. In such view of the matter, at this stage it is very premature to quash the final report on the ground that there is a civil dispute between the brothers and this Criminal Original Petition is liable to be dismissed. At this stage, learned counsel for the petitioners seeks indulgence of this Court to dispense with the personal appearance of the petitioners.

6. Accordingly, this Criminal Original Petition is dismissed. However, taking note of the nature of the dispute, personal appearance of the petitioners is dispensed with except for receiving copies and answering the charges u/s.313 Cr.P.C questioning and any other hearing that may be fixed by the trial Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa



To

1. The Judicial Magistrate II
Ulundurpet

2. Do through the Chief Judicial Magistrate, Villupuram

3. The Inspector of Police
Thirunavallur Police Station
Villupuram - 607 204.

4. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.P.Gopinath, Advocate Sr.NO. 65709

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KG(CO)
A.SK(27.12.2021)