



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R.THARANI

Crl.O.P. (MD)No.2857 of 2021

and

Crl.M.P. (MD)Nos.1517 and 1520 of 2021

1.Sankara Narayanan

2.Padmavathi ... Petitioners/Accused No.1&2

Vs.

1.The Inspector of Police

Vanniyampatti Vilakku Police Station,

Virudhungar District.

(Crime No.306 of 2020)

... Respondent/Complainant

2.Nithiyadevi

... Respondent/Defacto

Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in S.T.C.No.17 of 2021, on the file of the Judicial Magistrate No.II, Srivilliputhur and quash the same.

For Petitioner : Mr. S.Ramasamy

For Respondent No.1 : Mr.A.Robinson
Government Advocate

ORDER

The petitioners have filed the present petition under Section 482 Cr.P.C praying to call for the records pertaining to the case in S.T.C.No.17 of 2021, on the file of the Judicial Magistrate No.II, Srivilliputhur and quash the same.

2.On the side of the petitioners, it is stated that the petitioners 1 and 2 are husband and wife and the second respondent is the neighbour and there is a pathway dispute between the parties. On 24.08.2020, there was a wordy quarrel between them, the first petitioner gave a complaint against the second respondent and an F.I.R was registered against him. As a counter blast of that case, the second respondent has lodged this



complaint. The occurrence is said to have taken place on 24.08.2020 and the complaint was lodged only after five days from the date of the occurrence and the complaint reached the Court after seven days from the date of the occurrence. The occurrence alleged to have taken place is not in a public place and hence, offence under Section 294(b) I.P.C. is not made out and prayed the case to be quashed.

3.On the side of the first respondent, it is stated that the occurrence took place in the street and counter case is also pending in S.T.C.No.16 of 2021. In the observation mahazer reveals that the place of occurrence is the street and prayed the petition to be dismissed.

4.It is seen that there is a case and counter case in S.T.C.No.16 of 2021 and S.T.C.No.17 of 2021. Whether the place of occurrence is a public place or within the house cannot be decided at this juncture and this fact require a trial. In the above circumstances, there is no necessity to quash the case proceedings. Since there is a case and counter case pending between both the parties, there is no necessity to stay the proceedings or to dispense with the personal appearance of the petitioners.

5.Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

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 Judicial Magistrate No.II,
Srivilliputhur.

2.The Inspector of Police
Vanniyampatti Vilakku Police Station,
Virudhungan District.

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

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KM (09.03.2021) 3P 4C