

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.2842 of 2021

and

Crl.M.P.No.1582 of 2021

1. Andamuthu
2. Piramila Devi
3. Preethi

... Petitioners

/vs/

Easwari

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records culminating in C.C.No.9 of 2020 on the file of the learned Judicial Magistrate No.II, Gobichettipalayam, quash the same.

For Petitioners ... Mr.M.S.Dinakaran

For Respondent ... Mr.P.Saravana Sowmiyan

ORDER

The Criminal Original Petition has been filed to call for the records pertaining to C.C.No.9 of 2020 on the file of learned Judicial Magistrate No.II, Gopichettipalayam and quash the same.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The petitioners are accused 1 to 3 against whom, the respondent/defacto complainant had given a private complaint under Section 200 of Cr.P.C has been taken cognizance for the offence under Sections 147, 148, 323, 341, 427 and 506(ii) of IPC. The respondent had given a private complaint by alleging that on 02.10.2017 at about 10 a.m. while the defacto complainant and her relatives were repairing the hut with turbulence sheet, the accused 1 to 3 trespassed and abused them in fifthly language and also assaulted the respondent with stones. They also damaged the turbulence sheet worth Rs.2000/-. and also threatened the respondent with "Aruval".

4. The learned counsel for the petitioners submitted that there is a civil dispute between the petitioners and the respondent and that is exaggerated as criminal case; since the complaint has been given due to previous vengeance and the matter is civil in nature, the proceedings should be quashed.

5. The learned counsel for the respondent submitted that the respondent is a widow and she got injured in the said occurrence; the police has taking side with the petitioners, who are influential and did not register a case on the complaint given by the respondent/defacto complainant; on the other hand, the police are taking action on the false complaint given by the first petitioner and an F.I.R. has been registered against the respondent in crime No.461 of 2017.

6. The learned Judicial Magistrate has taken the case cognizance only because a prima facie case has been made out. The records would show that the petitioners have also got injured and F.I.R has been registered in this regard on 04.10.2017. When the respondent had produced a prima facie proof that she also got injured, the police ought to have taken it

seriously and registered a case on the complaint given by the respondent. But the police had registered a case only on the complaint given by the petitioners. Even though there may be some civil dispute between the respondent and the petitioners, the occurrence is not civil in nature. The pending civil dispute may be the motive for occurrence. But, on the face of the complaint, it is seen a criminal case is made out. The police did not take any proper action on the complaint given by the respondent/ defacto complaint. Therefore, she had chosen to give a private complaint against the petitioners. Since the respondent had made a prima facie case by producing the documents like wound certificate etc., the learned Judicial Magistrate had taken cognizance and issued summons to the petitioners. Only if the case is allowed to be tried and the witnesses are examined, the veracity of the contentions of each party can be proved.

7. It is not a case which does not disclose any prima facie materials to drop the further proceedings. The questions of fact cannot be dealt in the proceedings filed under Section 482 of Cr.P.C. and it is appropriate to allow the parties to undergo the trial. Since the learned Judicial Magistrate had taken cognizance only on being satisfied with the materials available on

record, the further proceedings should be allowed. However, it is open to the petitioners to raise contentions which are now made before this Court as their defence before the trial Court.

8. With these observations, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

21.12.2022

Index: Yes/No
Internet: Yes/No
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To

1. The learned Judicial Magistrate No.II,
Gobichettipalayam.
- 2.The Public Prosecutor,
High Court, Madras.

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R.N.MANJULA,J.

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