



Crl.O.P.Nos.16059 & 17929 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.16059 & 17929 of 2019

and

Crl.M.P.Nos.8012 & 9039 of 2019

1.Venkatesh

2.Anandhi

... Petitioners in Crl.O.P.No.16059 of 2019

1.P.Murugavel

2.M.Vijayalakshmi

3.V.Ravanan

4.M.Ravi

... Petitioners in Crl.O.P.No.17929 of 2019

-Vs.-

1.The Station House Officer,
Orleanpet Police Station,
Puducherry.
(Crime No.68 of 2019)

2.N.Bakkiaraj

.. Respondents in both Crl.OPs



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Common Prayer:

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records in Crime No.68 of 2019 on the file of the Station House Officer, Orleanpet Police Station, Pudhcherry and quash the proceedings insofar as it relates to the petitioners in both the petitions.

For Petitioner
in both Crl.OPs :Mr.A.Murugavel

For Respondent
in both Crl.OPs :Mr.Balamurugane,
Additional Public Prosecutor (Pondy)
for R1
No appearance for R2

COMMON ORDER

These Criminal Original Petitions have been filed to call for the records in Crime No.68 of 2019 on the file of the Station House Officer, Orleanpet Police Station, Pudhcherry and quash the proceedings.



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2. The petitioners herein are the accused in the case registered by the respondent police, pursuant to the direction of the learned Judicial Magistrate No.II, Puducherry, on the complaint laid by one Bakiyaraj.

3. The specific allegations as found in the complaint is that on 03.02.2019 when the *de facto* complainant went to the Judicial Magistrate No.I Court at Puducherry to attend a criminal case initiated against him, the accused persons came and threatened him and pressurised him to withdraw the complaint. One of the accused had showed a penknife and threatened him with dire consequences. When he lodged a complaint to the police, D.Nagar Police Station, Puducherry, they have refused to entertain. Hence, the petition, under Section 156(3) of Cr.P.C, has been filed before Magistrate and based on the direction of the learned Magistrate, a case, in Crime No.68 of 2019 for the offences under Section 294B and 506(ii) IPC read with Section 34 IPC, has been registered and taken up for investigation.



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4. The accused persons through these two petitions, which were filed under Section 482 Cr.P.C, seek quash of investigation on the ground that due to prevailing enmity between *de facto* complainant's family and his brother's family, a case has already been registered and the trial against *de facto* complainant for alleged abducting, rape and causing hurt of the daughter of Venkatesh/first petitioner in Crl.O.P.No.16059 of 2019 is pending. In order to wreck vengeance, the present false complaint has been filed and the police, considering the falsity in the complaint, did not entertain it. Hence, the second respondent has approached the learned Magistrate and got the direction to investigate the same by misrepresenting the facts.

5. The learned counsel appearing for the petitioners further submitted that the learned Magistrate has not applied his mind before directing the police to register the case. Even, the alleged date of occurrence has not referred in the order, which indicates that the learned Magistrate has mechanically forwarded the complaint without applying his



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mind and the learned counsel would also submit that the very reading of the complaint shows that it has been prepared by the legal mind to attract the ingredients of Sections 294B and 506(ii) IPC.

6. This Court perused the compliant as well as the order passed by the learned Magistrate for forwarding the complaint for registration. Though the date of occurrence has not been reflected in the order of the learned Magistrate, it indicates that the learned Judicial Magistrate has perused the case record and the complaint and *prima facie* satisfied that the offences under Sections 294, 506(ii) IPC read with Section 34 IPC has been made out and he had forwarded the case to the police for investigation. This cannot be construed as a mechanical order, when the complaint and the documents annexed, on perusal indicates that cognizable offences are made out for investigation. It is for the Investigating Officer to conduct the investigation and file the final report based on the material collected in the course of investigation.



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7. As there is enmity between the *de facto* complainant and the petitioner and a criminal case is pending against the *de facto* complainant, that fact *per se* cannot be a reason to presume the present complaint is a motivated one and the Court to prevent investigation. The law does not prohibit a tainted complainant to resort for legal remedy when his personal liberty is affected. It is the duty of the Investigating Officer to conduct the investigation in accordance with law and arrive at conclusion whether the accused person to be prosecuted or not.

8. For the reasons stated in this petition, the complaint cannot be quashed. Hence these Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petitions are also closed.

03.11.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

- 1.The Station House Officer,
Orleanpet Police Station,
Puducherry.
(Crime No.68 of 2019)
- 2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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