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Crl.O.P.No.17217 of 2019
and Crl.M.P.No.8689 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.17217 of 2019
and Crl.M.P.No.8689 of 2019

1.Sivakumar

2.Sundari

...

Petitioners

versus

1.Sub-Inspector of Police,
Nagarasampatti Police Station,
Pochampalli Taluk,
Krishnagiri District.

2.Chinnadurai

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records pertaining to the charge sheet in C.C.No.16 of 2017 on the file of the learned Judicial Magistrate, Pochampalli and quash the same.

For Petitioners : Mr.J.Pradeep

For Respondent No.1 : Mr.A.Damodaran
Additional Public Prosecutor

For Respondent No.2 : Notice served – awaited
No Appearance



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.16 of 2017 on the file of the learned Judicial Magistrate, Pochampalli.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent police.

3. The petitioners are the accused nos.1 and 2. The second respondent / *de facto* complainant has given a complaint on 13.08.2016 by alleging that on 09.08.2016 when he was grazing his cows at the place near the lake which is adjacent to his lands, the accused, who have previous enmity with the *de facto* complainant came there and abused him in filthy language and also threatened him that they would kill his family members as how they killed his father. On the said allegations, a case has been registered in Crime No.210 of 2016 for the offences under Sections 294(b) and 506(ii) IPC.



4. The learned counsel for the petitioners submitted that it is a false case given against the petitioners due to previous motive. The petitioners and the *de facto* complainant have civil dispute between themselves. Despite there are no material ingredients to make out the case and there is no material available, the charge sheet has been filed against the accused and hence, the proceedings are liable to be quashed.

5. The learned Additional Public Prosecutor for the first respondent police submitted that from the statement of L.W.1, it is clear that the accused had abused the *de facto* complainant in filthy language in a public place; since the charge sheet has already been laid, it is for the learned trial Judge to look into the materials and frame appropriate charges in accordance with the materials disclosed in the charge sheet.

6. It is seen that there are enough ingredients for constituting the offence under Section 294(b) IPC and not under Section 506(ii) IPC. However, it is the duty of the learned Judicial Magistrate, Pochampalli, to frame charges in accordance with the materials available on



record and in that case, the petitioners are at liberty to participate in the trial proceedings and take up all their points which placed before this Court as their defence. Since it is not a case which should be quashed in toto at the threshold stage itself, I am not inclined to allow this petition. Hence, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

05.12.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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- To
- 1.The Judicial Magistrate, Pochampalli.
 - 2.Sub-Inspector of Police,
Nagarasampatti Police Station,
Pochampalli Taluk,
Krishnagiri District.
 - 3.The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA, J.

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