

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19945 of 2021 and
Crl.M.P.Nos.10839 & 10840 of 2021

1.M.Selvakumar
2.Anitha

...Petitioners

Vs.

1.State rep. by,
The Inspector of Police,
Velagoundampatty Police Station,
Namakkal District.
(Crime No.145/2020)

2.Alamelu

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the charges in S.C.No.11 of 2021 on the file of the II Additional District and Sessions Court, Namakkal in respect of the petitioners.

For Petitioner :	Mr.A.J.Mohamed Kassim
For R1 :	Mr.R.Vinothraja, Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.C.No.11 of 2021, on the file of the II Additional District and Sessions Court, Namakkal.

2.The case of the prosecution in brevity is that the husband of the 2nd respondent is the deceased in this case. One Ramayee has 1.48 acres of agricultural land. Out of this, the deceased was cultivating half portion for lease when the remaining half portion was cultivating by the petitioners for lease. The lease portion of the deceased was over and he vacated the land some time earlier. But, even when the lease period with the accused was in force, Ramayee evicted the

petitioners from her land and lease it to one Senthilkumar. The petitioner thought that the deceased was behind this. Due to which, the petitioners had vengeance against the deceased. On 18.04.2020, at about 07.00 p.m., and in front of the house of the deceased situated at Adidraavidar Street, Manathi Post, Tiruchengode, when the deceased and the 2nd respondent and their daughter were talking together, the petitioners quarrelled with the deceased blaming them that only because of them, Ramayee did not allow them to cultivate her land. The 1st petitioner kicked on the abdomen of the deceased and as he fell down on the ground, both the petitioners indiscriminately fisted and kicked on his chest and thereby, caused his death. Hence, the 1st respondent Police registered a case in Crime No.145 of 2020, after completion of investigation, charge sheet filed before the learned II Additional District and Sessions Judge, Namakkal.

3.The learned counsel for the petitioners submitted that the petitioners and the 2nd respondent are neighbours and they hail from same Village. The 2nd respondent, who is the wife of deceased claimed that her husband died due to accident and she had also received some amount from the insurance company. Hence, filing the above case against the petitioners as though the deceased died due to fisting and kicking by the petitioners, cannot be accepted. Hence, he prayed for quashing of the proceedings against the petitioners.

4.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that in this case, there are eye witnesses (LW8 to LW12) who were present in the scene of occurrence at the time of alleged assault on the deceased. On registration of FIR, the 1st respondent reached the scene of occurrence, prepared Observation Mahazar, Rough Sketch, examined the witnesses, recorded their statement, conducted inquest on the body of the deceased and sent the body for post-mortem. During investigation, totally 22 witnesses have been examined as LW1 to LW22 and charge sheet filed as early as on 10.07.2021. The petitioners for one reason or other, delaying the progress of the trial. Hence, he prayed for dismissal of this petition.

5.The contentions put forward by the learned counsel appearing on behalf of the petitioners are purely factual in nature and this Court cannot venture into conducting a mini trial into the matter and it therefore does not fall within the ambit of its jurisdiction under Section 482 of Cr.P.C.

6.In the facts and circumstances of the case, this Court is not inclined to interfere with the progress of the trial at this stage.

7.In the result, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The II Additional District and Sessions Court,
Namakkal.
- 2.The Inspector of Police,
Velagoundampatty Police Station,
Namakkal District.
- 3.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.19945 of 2021

KSM(CO)
SP(22/02/2022)