



Crl.O.P.Nos.17997 and 18155 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.Nos.17997 and 18155 of 2021

and

Crl.M.P.Nos.9981 and 9898 of 2021

Crl.O.P.No.17997 of 2021

A. Vadivel

...Petitioner

Vs.

1.The State rep.by
The Inspector of Police,
Magudamchavadi Police Station,
Salem District.
(Crime No.313 of 2021)

2.M.Rajkumar

...Respondents

Prayer: Criminal Original Petitions are filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No.313 of 2021 on the file of the 1st respondent, police and quash the same.



Crl.O.P.Nos.17997 and 18155 of 2021

For Petitioner : Mr. R.T.Vishnu
For Respondents : Mr.A.Damodaran, for R1
Additional Public Prosecutor
Mr.R.Marudhachalamurthy, for R2

Crl.O.P.No.18155 of 2021

1.P. Arumugam
2.A. Palanisamy ...Petitioners

Vs.

1.The State rep.by
The Inspector of Police,
Magudamchavadi Police Station,
Salem District.
(Crime No.313 of 2021)

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Prayer: Criminal Original Petitions are filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No.313 of 2021 on the file of the 1st respondent, police and quash the same.



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Crl.O.P.Nos.17997 and 18155 of 2021

For Petitioners : Mr.N. Manoharan
For Respondents : Mr.A.Damodaran, for R1
Additional Public Prosecutor
Mr.R. Marudhachalamurthy, for R2

COMMON ORDER

These Criminal Original Petitions are filed to call for the records pertaining to FIR in Crime No.313 of 2021 on the file of the 1st respondent-police and quash the same.

2. The case of the prosecution is that on 25.07.2021 at about 8.00 pm, the petitioners along with other accused trespassed into the lands of the second respondent and damaged the fence. After hearing about the occurrence, the second respondent questioned the accused but they abused the second respondent in a filthy language. On the basis of the above allegations, a case has been registered in Crime No.313 of 2021 for the offences under Sections 294(b) and 476 IPC.

3. Heard the learned Additional Public Prosecutor for the first respondent, the learned counsels for the petitioners and second respondent.



3. The learned counsel for the petitioners submitted that the complaint is a false one. Since the petitioners are the owners of the subject property, no offence of trespass could have been committed. The second respondent has not stated that she was annoyed by the words uttered and hence, no offence under Section 294(b) is made out. A mere threat or uttering the words would not attract the offence under Section 506(ii). The complaint has been made with a malafide intention which filed in order to wreck personal vengeance and it is impermissible in law. One Vadivel has filed a suit against the second respondent's father and 14 others. Hence, the FIR should be quashed.

4. The records would show that the second respondent has given a complaint by alleging that on the alleged date and time, the accused have trespassed into his land and damaged the fence and also abused him in filthy language. In the complaint itself, the second respondent has stated about the civil suit which is pending in the Court. It is stated that the said civil suit is the motive for the present occurrence. The powers of the Court under Section 482 Cr.P.C., can be exercised only in rare cases where no offence is



made out on the face of the complaint. In fact, in the complaint, it is stated about the previous civil litigation as a motive. Even though, it is claimed by the petitioners that the land does not belong to the second respondent, the fact cannot be unearthed, unless and until investigation is done.

5. At this stage, the Court is precluded from making any roving enquiry into the merits of the allegations. When a cognizable case has been made out, the police has got the right and duty to take up the investigation. It is not a case where the petitioners could bring out the glaring insufficiency of materials to make out a case. Unless the investigation is done, even the submission made by the petitioners cannot be confirmed.

6. Since the materials on record have got the scope for investigation, I felt it is appropriate to allow the first respondent, investigating agency to continue with the investigation and file final report within a specific time frame.



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R.N.MANJULA,J.

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In the result, the Criminal Original Petitions are dismissed and the first respondent-police is directed to complete the enquiry and file final report. Consequently, connected miscellaneous petitions are closed.

21.09.2022

AT

Index:yes/No

Speaking order / Non speaking order

To

1.The Inspector of Police,
Magudamchavadi Police Station,
Salem District.

2.The Public Prosecutor,
High Court of Madras.

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Crl.M.P.Nos.9981 and 9898 of 2021