



Crl.O.P No.20071 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.20071 of 2021
and Crl.M.P. No.10933 of 2021

1. D. Nagavalli
2. D.Pradeep
3. D.Prashanth
4. S.Aishwariya

... Petitioners

Vs.

1. The Inspector of Police,
N-1, Royapuram Police Station,
Chennai – 600 013.

2. G.Amaran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for records pertaining to the records C.C. No.1194/2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioners : Mr.D.Umashankar

For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor
2 : Mr. N.Beullah John Selvaraj



ORDER

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This Criminal Original Petition is filed to call for records pertaining to the records in C.C. No.1194/2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai and quash the same.

2. The *de facto* complainant is the brother of the first accused and the petitioners 2 to 4 are the children of the first accused. The case of the prosecution is that the parties have already got a civil dispute between themselves and the second respondent / *de facto* complainant and his brother were living in a same house but in different portions. On 06.03.2021, while the *de facto* complainant went to work, his wife informed him that the first accused and her children, the petitioners herein, have broken the lock of the house where her Sridhana articles were kept; they took them and threw away on the terrace. When the *de facto* complainant questioned the same, the accused abused, assaulted and threatened him. Hence, the *de facto* complainant has given a complaint before the respondent police and on which a case has been registered in Cr. No.81 of 2021 for the offences under Section 448, 294(b), 323, 506(ii) IPC. After completing the investigation, charge sheet has been filed against the



accused and the same was taken on file in C.C. No.1194 of 2021.

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3. The learned counsel for the petitioners submitted that in an earlier civil suit between the first petitioner / first accused and the *de facto* complainant, the first accused is declared as the owner of the entire property and hence there cannot be any offence made out for trespass under Section 448 I.P.C.

4. Even though the first petitioner might have been declared as the owner of the suit mentioned property, the allegation of the *de facto* complainant is that the accused have broken the door where the *de facto* complainant's wife has kept her Sridhana articles, during her absence and threw them away on the terrace.

5. The origin of this Case appears to be the civil dispute between the parties. Since the first petitioner is said to be the owner of the property, as of now, her right to access into the property cannot be said as an offence of trespass in order to punish her under Section 448 IPC.



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6. So far as the offence under Section 294(b) IPC is concerned, the accused said to have abused the *de facto* complainant when he came to the house. The said occurrence is said to have occurred inside the house and not in public view, the allegation will not attract the penal provision of Section 294 (b) IPC.

7. The third allegation is that the petitioners threatened the second respondent that they would kill him. The words uttered in this regard seems to be out of emotion and frustration and not with any intention.

8. Taking into consideration the relationship between the parties and also the nature of dispute which is purely a family dispute, I do not find any strong materials to make out the offences for which the petitioners have been charged with. Considering the civil dispute and all other circumstances of the case, I feel no fruitful purpose will be served, if the accused are put to trial. Hence the proceedings in C.C. No.1194 of 2021 is liable to quashed.



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9. In view of the above stated reasons, this Criminal Original Petition is allowed and the charge sheet in C.C. No.1194 of 2021 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai is quashed.

Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes/No
Speaking Order : Yes / No
bkn

To

1. The Inspector of Police,
N-1, Royapuram Police Station,
Chennai – 600 013.
2. The XVI Metropolitan Magistrate,
George Town, Chennai.
3. The Public Prosecutor
High Court of Madras.



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R.N.MANJULA, J.,

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