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Crl.O.P.No.16739 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.16739 of 2018 and
CrI.MP.No.8640 of 2018

1.Karunakaran
2.Vasanthy
3.Jothi Senthil Kannan ... Petitioners

Vs.

1.State,
rep. By Station House Officer,
Kirumambakkam Police Station,
Puducherry
2.N.Karunanidhi ... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records in STC.No.568 of 2016 on the file of the learned Judicial Magistrate No.IV, Puducherry and to quash the same.

For Petitioners : Mr.R.Natarajan

For Respondents
For R1 : Mr.M.V.Ramachandramoorthy,
Additional Public Prosecutor
(Puducherry)

For R2 : Mr.R.Nandhakumar,
Legal Aid Counsel



Crl.O.P.No.16739 of 2018

WEB COPY

ORDER

This criminal original petition has been filed to quash the proceedings in STC.No.568 of 2016 on the file of the learned Judicial Magistrate No.IV, Puducherry taken cognizance for the offence under Sections 294(b), 323, 506(i) r/w 34 of IPC, as against the petitioners.

2. Heard, the learned counsel appearing on either side.

3. The case of the prosecution is that the second respondent owned land comprised in RS.No.56/1A/1 admeasuring 5 kanis. Without any title and without any right over the property, the petitioners had trespassed into the said property and were ploughing the land on 10.08.2013. Immediately the second respondent along with his brother-in-law went there and questioned the same. Therefore, the first accused attacked the second respondent with hands and other accused persons scolded him with filthy languages and also threatened him with dire consequences. On receipt of the complaint, the first respondent registered FIR in crime No.95 of 2013 for the offence under Sections 294, 323, 506 r/w 34 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in SC.No.568 of 2016 on



Crl.O.P.No.16739 of 2018

the file of the Judicial Magistrate Court No.IV, Puducherry.

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4. It is seen that the occurrence took place on 10.08.2013, whereas the complaint was lodged on 13.08.2013. There is absolutely no explanation for the delay in lodgment of complaint. That apart, the injured person i.e. the second respondent went abroad on the date of the occurrence itself. After three days, the complaint was lodged by another person, that too written by the second respondent. Therefore, the injured was not examined and injured did not lodge any complaint. That apart, on perusal of the statement recorded from the doctor who treated the second respondent stated that on 08.08.2013, while she was on duty, the second respondent came there with simple injury. He stated before the doctor that he was assaulted by a known person by hand. Even according to the second respondent, the occurrence had happened on 10.08.2013. When it was being so, he would not have gone to hospital on 08.08.2013 itself. Therefore, the entire case has been foisted as against the petitioner in order to wreak vengeance against him. That apart, already there are civil suits pending in respect of the subject property against the petitioners filed by the father of the second respondent which are now pending in OS.No.796 of 2003 and OS.No.834 of 2003 on the file of the Principal District



Crl.O.P.No.16739 of 2018

Munsif, Puducherry. In this regard, it is relevant to extract the judgement

reported in **(1992) SCC CrL. 426** in the case of ***Bajanlal v. State of Haryana***, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the impugned proceedings is nothing but clear abuse of process of law and it cannot be sustained as against the petitioners.

5. In view of the above, the impugned proceedings is liable to be quashed. Accordingly, the entire proceedings in STC.No.568 of 2016 on the file of the learned Judicial Magistrate No.IV, Puducherry is quashed as against the petitioners and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.



WEB COPY



Crl.O.P.No.16739 of 2018

05.10.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.



Crl.O.P.No.16739 of 2018

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To

WEB COPY

- 1.The learned Judicial Magistrate No.IV,
Puducherry
- 2.Station House Officer,
Kirumambakkam Police Station,
Puducherry
- 3.The Public Prosecutor,
High Court of Madras

CRL.O.P.No.16739 of 2018

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