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Crl.O.P.No.9392 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.9392 of 2022
and Crl.M.P.No.5478 of 2022

1.R.Radhika

2.A.Anbu

... Petitioners

Vs.

1.The State represented by
The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

2.Y.Deepa

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pending on the file of the 1st respondent Police namely the Inspector of Police, Vellore Taluk Police Station, Vellore District in Crime No.26 of 2022 and quash the criminal proceeding.

For Petitioners : M/s.R.Sivasankar
for M/s.Vijayan Associates

For R-1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Criminal Side)



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For R2

: Mr.G.Balamanikandan

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ORDER

This Criminal Original Petition has been filed to call for the records pending on the file of the 1st respondent Police namely the Inspector of Police, Vellore Taluk Police Station, Vellore District in Crime No.26 of 2022 and quash the criminal proceeding.

2.The learned counsel for the petitioners submitted that petitioners are close relatives. There was complaint given with exaggerated and false account. It is his further submission that the offence under Section 427 I.P.C. is non-cognizable offence. In such circumstances, he prays for quashing of proceedings.

3.The learned Government Advocate (Criminal side) submitted that investigation in this case is pending and completed in due course and final report would be filed.



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4.The learned counsel for the second respondent submitted that, petitioners had damaged the bike of the second respondent's husband in the incident and thus he opposed this petition. This matter was referred to mediation. However, the mediation failed and failure report is received.

5.Considered the rival submissions and perused the records.

6.It is seen from the First Information Report allegations that defacto-complainant's husband is working in Indian Army. She is residing in the first floor and her husband's sister Radhika is living in ground floor. Her husband had parked his two-wheeler bearing No.Rj 13 SG 4302 near the stairs. At about 7.30. A.M. on 26.12.2021, Radhika scolded in filthy language as to why the two-wheeler was parked there and she tore the seat. After sometime, defacto-complainant's another sister-in-law Malathi's husband came there, he broke the lock in a chain used for tying the two-wheeler and then left the vehicle near chicken cage. Thus, on the basis of the complaint given by second respondent,



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First Information Report was registered for the offences under Sections 294 (b) and 427 I.P.C. The offence under Section 427 I.P.C. is non-cognizable offence.

But the offence under Section 294 (b) is cognizable offence. When non-cognizable offence is tried with cognizable offence, offences have to be tried as cognizable offences under Section 155 (4) Cr.P.C. This Section reads as follows:-

“Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable”.

7.Thus, it is clear that when there are multiple offences involved, if one of the offences is cognizable offence, the case shall be tried as cognizable case, notwithstanding, the fact that other offences are non-cognizable. The complaint allegations make out commission of cognizable offence namely, offence under Section 294 (b) I.P.C. That apart, it is seen from the First Information Report allegations that accused had damaged the two-wheeler bearing No.Rj 13 SG 4302. The offences are to be necessarily investigated and appropriate final report



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has to be filed. In this view of the matter, this Court cannot permit quashing of the proceedings in Crime No.26 of 2022 on the file of the Inspector of Police, Vellore Taluk Police Station, Vellore District.

8.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

26.04.2023

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

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To

1.The Inspector of Police,
Vellore Taluk Police Station,
Vellore District.

2. The Public Prosecutor,
Madras High Court.

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G.CHANDRASEKHARAN,J.

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