



Crl.O.P.No.19763 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.19763 of 2019

and

Crl.M.P.No.10134 of 2019

1.C.Srinivasan
2.C.Govindarajan

...Petitioners / Accused

-Vs-

S.Rajendran

... Respondent / Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records relating to the proceedings in C.C.No.789 of 2019 on the file of the Judicial Magistrate – VII, Coimbatore and to quash the same.

For Petitioner : Mr.Bharath Kumar

For Respondent : Mr.G.Mahesh Kumar



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ORDER

This Criminal Original Petition has been filed seeking to quash the private complaint in C.C.No.789 of 2019 on the file of the Judicial Magistrate - VII, Coimbatore, filed for the alleged offences under Sections 294(b), 352, 341, 427, 379 and 506(ii) of IPC.

2.It is alleged in the complaint that on account of the property dispute, the petitioners had assaulted the de-facto complainant and taken away sand from the land belonging to the complainant, besides abusing him in filthy language. Hence, the complaint.

3.The learned counsel for the petitioners submits that the matter is civil in nature and civil suit is pending and the petitioners had obtained an interim order in their favour. The impugned complaint is a clear abuse of process of law and no such incident as alleged has taken place. Hence, he prayed for quashing of the impugned final report in C.C.No.789 of 2019.



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4.The learned counsel for the respondent submits that there are allegations in the impugned final report and the same has to be adjudicated only before the trial Court. Hence, he prayed for dismissal of the quash petition.

5.The learned counsel for the petitioners is right in his submission that the offence under Section 294(b) IPC is not made out and the allegations do not suggest that any obscene words were uttered by the petitioner.

6.This Court on a perusal of the impugned complaint and the documents filed by the petitioners finds that there is a civil dispute between the parties. However, the points raised by the learned counsel for the petitioners that there was no assault and the allegation of theft is an after thought has to be adjudicated only before the trial Court. Therefore, this Court is not inclined to entertain the quash petition.

7.However, this Court is of the view that the offence under Section 294(b) IPC is not made out as against the petitioners. The trial Court



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shall proceed with the trial of the other offences under Sections 353, 341, 427, 379 and 506(ii) of IPC in accordance with law.

8.The petitioners are at liberty to raise all the points before the trial Court. The trial Court shall consider the evidence adduced before it, without influencing by any of the observations made in this order. The trial Court may conclude the trial in C.C.No.789 of 2019 as expeditiously as possible.

9.Accordingly, this Criminal Original Petition is dismissed. Connected, Criminal Miscellaneous Petition is closed.

05.04.2023

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Internet: Yes

Index : Yes/No

Speaking : Yes / No

Neutral Citation : Yes / No



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To,

1.The Public Prosecutor,
High Court of Madras.

2.The Judicial Magistrate – VII,
Coimbatore.



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SUNDER MOHAN,J.

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