



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.20302 of 2019
and Crl.M.P. No.10425 of 2019

1. Venkatachalam
2. Aravind Kumar
3. Arunkumar
4. Gopi
5. Kala @ Kalavathy

... Petitioners / Accused 1-5

Vs.

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

2. Manokaran

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.314/2019 on the file of Judicial Magistrate-I, Vellore and quash the same.

For Petitioners	: Mr.G.Nirmal Krishnan
For Respondents-1	: Mr.A.Gopinath
	Government Advocate
R2	: Mr.K.Thiruvengadam



ORDER

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This petition has been filed to call for the records in C.C. No.314/2019 on the file of Judicial Magistrate-I, Vellore and quash the same.

2. The petitioners are the accused 1-5 against whom the respondent / *de facto* complainant had preferred a complaint by alleging that on 19.03.2017 at about 3.00 p.m. when the *de facto* complainant was coming out from his house, due to previous enmity with regard to a passage, the petitioners intercepted the defacto complainant and abused him in filthy language and attacked him ; the persons who witnessed the occurrence have pacified the petitioner and the brother-in-law of the second respondent had taken him to hospital for treatment; on the basis of these allegations a case has been registered against the petitioners in Cr. No.113/2017 for the offences under Section 147, 294(b), 341, 323, 506(1) IPC. After investigation charge sheet has been filed in C.C. No.314/2019 for the offences under Section 294(b), 147, 323, 341, 506(1) IPC.



3. The learned counsel for the petitioners submitted that the second respondent had exaggerated a civil case pending between himself and the petitioners with regard to a pathway dispute; the materials available on record would not make out any criminal case and the charge sheet has been filed against the petitioners without any basis; since the complaint has been given only due to some earlier motive and the averments in the complaint are exaggerated, the proceedings are liable to be quashed.

4. The learned Government Advocate (Crl.side) submitted that the *de facto* complainant is the injured and he had given the statement by elaborating the occurrence; there are eye witnesses who have witnessed the occurrence and they have also given statement about the occurrence; the Doctor who had treated the petitioner had been listed as L.W.7; he had stated about the treatment given to the injuries suffered by the second respondent; since there are materials available on record to make out a case against these petitioners, further proceedings should be allowed to continue.

5. It might be true that there may be a civil dispute between the petitioners and the second respondent but so far as this case is concerned,



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the allegations have been made that the petitioners have abused and attacked the second respondent. The above overt act on the part of the petitioners would attract the penal provisions of criminal law. Unless the accused are subjected to trial, the real facts cannot be put to test.

6. During investigation the witnesses have stated about the occurrence and the statement of the Doctor would also connect the accused to this occurrence. Under such circumstances it is premature to close the case by stating that there is no material available on the side of the prosecution to prove the guilt against the accused. Hence, I do not feel it is an appropriate case where the powers of this Court under Section 482 Cr.P.C. should be exercised to quash the proceedings.

7. In view of the above stated reasons, this Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

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(2/2)

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



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To:

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1. The Judicial Magistrate-I,
Vellore.
2. The Inspector of Police,
Vaniyambadi Taluk Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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