



Crl.O.P.No.22292 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.22292 of 2019 and
Crl.M.P.No.11562 of 2019

1.R.Lakshmanasamy
2.L.Saravanan

... Petitioners / Accused

/vs/

1.State Rep by
The Inspector of Police,
Negamam Police Station,
Negamam, Coimbatore District.

2.Ramasamy

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in Crime No.181 of 2019 on the file of the first respondent Police and quash the same.

For Petitioners ... Mr.P.M.Duraiswamy

For Respondents ... Mr.A.Gopinath,
Govt. Advocate (Crl.Side) for R1
No appearance for R2



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ORDER

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This Criminal Original Petition has been filed to call for the records in Crime No.181 of 2019 on the file of the first respondent Police and quash the same.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3. The petitioners are the accused 1 and 2. The case of the prosecution is that the land in S.No.30/1A4 at Chinnanegamam Village, Pollachi Taluk belongs to the second respondent. On 02.07.2019, at about 7 a.m., the petitioners and the other accused have broken the fencing stones of the said property. When the second respondent questioned about the same, the petitioners threatened him that they will kill him. On these allegations, a case has been registered in Crime No.181 of 2019 for the offences under Sections 427, 506(i) IPC against the petitioners and other two unnamed accused.

4. The learned counsel for the petitioners submitted that the second



respondent has given a false complaint with the false allegation just in order to quench his motive against these petitioners with whom he had pending civil suits; the averments in the complaint does not have any ingredients to make out a *prima facie* case against the petitioners; the first respondent also did not collect any broken stones from the spot.

5. The learned Government Advocate (Crl.Side) submitted that the investigation is still pending; only if the investigation is allowed to go, the real facts can be brought to light.

6. The second respondent / defacto complainant has alleged that he is the owner of the land in S.No.30/1A4. As per the patta pertaining to S.No.30/1A4, it is seen that the defacto complainant is one of the co-owners of the said survey number which measures 0-26.00 Hectares.

7. It is submitted by the learned counsel for the petitioner that it is a common pathway in which no one could place any fencing stones. The first petitioner had filed a suit against the second respondent in O.S.No.46 of



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2018 before the Sub Judge, Pollachi in respect of some other property in S.No.24/1B. Hence it is submitted that the second respondent had given this complaint as a counter blast.

8. The averments in the FIR would show that the petitioners and the other two accused had broken the fencing of the second respondent. As rightly pointed out by the petitioner, the immediate relevant materials i.e., the broken stones from the spot were not collected by the first respondent police in order to ascertain the *prima facie* case before registering the FIR. With regard to the other allegations that the second respondent was threatened to death, it is very bald and there is no material to show that the petitioners had ever threatened the second respondent or assaulted him. Even though the FIR need not be an encyclopaedia, on the face of the complaint, it should make out the *prima facie* case.

9. If a civil case is given with a criminal colour or a criminal case is given as a counter blast for the civil case already pending between the parties, there is absolutely no necessity to waste the time of the



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investigating agency by continuing the investigation. Since the materials available on record as such does not disclose any cause of action and there is a civil suit pending between the petitioners and the second respondent, I feel that the complaint is just an exaggeration. In view of the trivial allegations made without any basis, I feel it is appropriate to invoke the jurisdiction of this Court under Section 482 of Cr.P.C., to quash the proceedings.

10. In the result, this Criminal Original Petition is allowed and the proceedings in Crime No.181 of 2019 on the file of the first respondent Police is quashed. Consequently, connected miscellaneous petition is also closed.

23.02.2023

Index: Yes/No
Internet: Yes/No
gsk

R.N.MANJULA ,J.



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To
WEB COPY

- 1.The Inspector of Police,
Negamam Police Station,
Negamam, Coimbatore District.
- 2.The Public Prosecutor,
High Court, Madras.

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Crl.M.P.No.11562 of 2019

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