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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.25006 & 30297 of 2022
and Crl.M.P Nos.15617, 18565 & 18566 of 2022

Crl.O.P.No.25006 of 2022

1.M.Muniyandi

2.A.Muruganandham

3.M.Rakhi

4.M.Senthil

Petitioners

VS.

The State rep. by
The Inspector of Police,
R-8, Vadapalani Police Station,
Arcot Road,
Vadapalani,
Chennai – 600026.

2.Devi Pugazhendhi

Respondents

Crl.O.P.No.30297 of 2022

1.M.Sekar

2.S.Karruppu Samy

VS.



1.The State rep. by
The Inspector of Police,
R-8, Vadapalani Police Station,
Arcot Road,
Vadapalani, Chennai – 600 026

2.Devi

Respondents

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.817 of 2022 on the file of the XVII Metropolitan Magistrate at Saidapet, Chennai and quash the same.

In Both Petitions

For Petitioners : Mr.V.Raghavachari
Senior Counsel for
M/s.Swarnam J.Rajagopalan

For Respondents : Mr.A.Gopinath
Government Advocate
for R1

Mr.G.Anubuchezheiyen for R2

COMMON ORDER

These criminal original petitions have been filed seeking to quash the proceedings in C.C.No.817 of 2022, pending on the file of the XVII Metropolitan

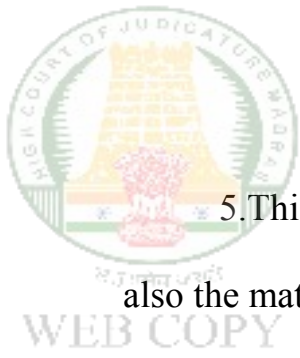
Magistrate Court, Saidapet.



2.The 2nd respondent gave a complaint to the effect that the petitioners and the family of the 2nd respondent were using a common lane and that the petitioners were causing trouble to the 2nd respondent and were threatening and abusing her whenever, the common lane was used for ingress and egress. A suit was also instituted before the City Civil Court in O.S.No.5631 of 2017 by the husband of the 2nd respondent seeking for the relief of permanent injunction and while so, on 29.02.2020, the accused persons joined as an unlawful assembly and physically restrained the 2nd respondent and abused her in filthy language and also caused criminal intimidation to the 2nd respondent. Based on this complaint, the 1st respondent registered an FIR in Crime No.625 of 2021.

3.The investigation was completed and a final report was filed before the Court below against the petitioners (A1 to A6) for offence under Sections 147, 341, 294(b) and 506 (i) of IPC. The same was taken cognizance by the Court below and aggrieved by the same, the present criminal original petition has been filed before this Court.

4.Heard Mr.V.Raghavachari, learned Senior Counsel appearing on behalf of the petitioners, Mr.A.Gopinath, learned Government Advocate appearing on behalf of the 1st respondent and Mr.G.Anubuchezheiyen, learned counsel appearing on behalf of the 2nd respondent.

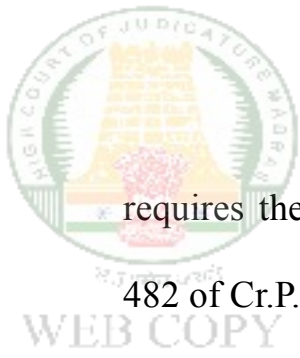


5. This Court has carefully considered the submissions made on either side and also the materials available on record.

6. This is a case where a civil dispute has been attempted to be given a criminal colour. Even as per the 2nd respondent, the incident had taken place on 29.02.2020 and whereas, the complaint was lodged on 02.07.2021. Unfortunately, an FIR was registered on the very same day even without conducting a preliminary enquiry as is required by the judgment of the Apex Court in ***Lalitha Kumari Vs. Government of Uttar Pradesh*** reported in **2013 (6) CTC 353**. If such an enquiry had been conducted, the respondent police would have ascertained the fact that there is already a civil dispute pending with respect to the dispute regarding the usage of the common pathway.

7. The statements that have been recorded by the Investigation Officer from the witnesses during the course of investigation also clearly show that the complaint has been lodged to settle a civil dispute between the parties. Ultimately, the right over the property will have to be decided only by the Civil Court and in the meantime, the 2nd respondent has instituted the complaint.

8. In the considered view of this Court, the continuation of the proceedings as against the petitioners will clearly amount to an abuse of process of Court which



requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

9.In the light of the above discussion, proceedings in C.C.No.817 of 2022, pending on the file of the XVII Metropolitan Magistrate Court, Saidapet, is hereby quashed.

10.Accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

13.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ssr

To

1.The XVII Metropolitan Magistrate at Saidapet, Chennai.

2.The Inspector of Police,
R-8, Vadapalani Police Station,
Arcot Road,
Vadapalani,
Chennai – 600026.

3. The Public Prosecutor,
High Court of Madras, Madras.



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N. ANAND VENKATESH,. J.

SSR

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