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Crl.O.P.No.30033 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

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and

Crl.M.P.No.16227 of 2019

- 1.Marimuthu @ Thangam
- 2.Mohanraj @ Mohan
- 3.Rajkumar
- 4.Kandan @ Kandasamy
- 5.Vijayakumar
- 6.Mohan
- 7.Gundumani @ Chinnapiayan @ Vaiyapuri
- 8.Nataraj
- 9.Kanagaraj
- 10.Kumar
- 11.Satheesh Kumar
- 12.Guna

...Petitioners

-Vs-

S.Boopalan

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in PR.No.14 of 2018 on the file of the Judicial Magistrate No.1, Salem, Salem District against the petitioners for the offence under Sections 387, 327, 506(i), 306 of IPC on a private complaint of the respondent and to quash the same.



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For Petitioner : Mr.B.Vasudevan
For Respondent : Mr.D.Shivakumaran
For Ms.Nirmala

ORDER

This Criminal Original Petition has been filed to quash the private complaint initiated for the offence under Sections 387, 327, 506(i), 306 of IPC.

2.It is alleged in the complaint that the petitioners on account of prior enmity had trespassed into the land belonging to the complainant and with common intention to forcibly vacate him from the lease hold property. They had abused him in filthy language and caused hurt to him. It is further alleged that one Anandraj the brother of the complainant had later committed suicide. The learned Judicial Magistrate No.I, Salem had taken cognizance for the offence under Section 387 of IPC against A9 and for the offence under Section 427 of IPC against A2, A3 and A7 and for the offence under Sections 506(i), 306 of IPC against all the accused.



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3.The learned counsel for the petitioner submits that this is a civil transaction and dispute between the landlord and tenant who are related to each other is sought to be given criminal colour. He would further submit that none of the offences are made out as against the petitioners, even if the allegations are accepted to be true. The learned counsel would submit that the alleged suicide by one Anandraj, the brother of the complainant, is not related to the alleged occurrence and hence the offence under Section 306 of IPC is not made out.

4.The learned counsel for the respondent fairly submitted that the offence under Section 306 of IPC is not made out in the facts and circumstances of the case, since the suicide cannot be attributed to the acts of the petitioners. However, the learned counsel submitted that the other offences are made out. Hence, he prayed for dismissal of the present quash petition.

5.This Court on a reading of the impugned complaint, finds that there are allegations against the accused and the learned Magistrate No.1 Salem, has taken cognizance of the offences under Sections 387, 427 of



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IPC as against some accused and 506(i), 306 of IPC against all the accused. These allegations have to be adjudicated in the trial. However, this Court finds that the offence under Section 306 of IPC is not made out. Even as per the complaint, the said Anandraj attempt to commit suicide by consuming rat poison and he was later discharged from the hospital. There is absolutely no allegation that any of the petitioners had abated the said attempt made by the said Anandraj.

6.In such view of the matter, this Court finds that the offence under Section 306 of IPC is not made out and hence, the complaint insofar as Section 306 of IPC alone is quashed. As regards the other offences, to which the learned Magistrate has taken cognizance the matter has to be adjudicated before the Trial Court.

7.With the above observations, this Criminal Original Petition is partly allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

27.03.2023

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



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