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Crl.O.P.No.32086 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32086 of 2022
and
Crl.M.P.Nos.19745 & 19747 of 2022

1.Don Bosco

2.Louismarigloria ... Petitioners

Vs.

1.State by Inspector of Police,
Thiyagadurgam Police Station,
Kallakurichi District.
Crime No.20 of 2022.

2.Stephen Louis ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records STC.No.66 of 2022 on the file of the learned Judicial Magistrate – II, Kallakurichi and quash the same.

For Petitioners : Mr.P.Paramasiva doss

For 1st Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER



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This Criminal Original Petition is filed to call for the records in STC.No.66 of 2022, on the file of the Judicial Magistrate – II, Kallakurichi and quash the same.

2.The learned counsel for the petitioners submitted that the allegations made in the FIR and the final report did not make out a case for proceeding against the petitioners for the offences under Sections 294(b), 323, 352, 506(1) IPC. He further submitted that the petitioners are aged more than 65 years and they are falsely implicated in the case by the defacto complainant and prayed for quashing of the proceedings against the petitioners.

3.The learned Government Advocate (Crl.Side) submitted that the FIR allegations, statement of witnesses and final report clearly shows that the case for prosecuting the petitioners for the offences under Sections 294 (b), 323, 352, 506(1) IPC are made out. Thus, he prayed for dismissal of this petition.

4.Heard the submissions of the learned counsel for the petitioners and the learned Government Advocate and perused the records.



5.Perusal of FIR and final report show that there are specific allegations made against the petitioners and other accused. It is alleged that the defacto complainant owns a property in Melvizhi village, in S.Nos.74/2B, 74/3B, 74/2C, 74/2D to an extent of 3 acres and 50 cents. The first accused is his brother, second accused is his sister, third accused is the husband of the fourth accused. The accused were preventing the defacto complainant from enjoying his property and therefore, he decided to sell the property to LW2-Dhanasekaran. On 06.01.2022, at about 4.30 p.m., when the defacto complainant and Dhanasekaran visited Thiyagadhurugam Sub Registrar Office with regard to the sale of the property, accused 1 to 4 came there and compelled the defacto complainant to sell the property to the accused. But, the defacto complainant refused their request. The first accused scolded him in filthy language, banged him against the wall of the Sub Registrar Office, kicked him with his knees on his private part; 2nd accused made death threat and stabbed him repeatedly on his cheeks; 3rd accused scolded him in filthy language, strangled him and threatened him; 4th accused scolded him in filthy language and instructed to place him in a Car, so that the defacto complainant can be killed and buried. They also hit the defacto complainant with stones.

6.Reading of the allegations made against the petitioners and other



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accused clearly makes out a case for prosecuting the petitioners for the offences under Sections 294 (b), 323, 352, 506(1) IPC. Merely because the petitioners are aged, it cannot be decided that they have not committed the offences when the statement of the defacto complainant and the other witnesses support the case of the prosecution. Therefore, this Court finds that there is no merits in the claim of the petitioners for quashing the proceedings against them in STC.No.66 of 2022, on the file of the Judicial Magistrate – II, Kallakurichi.

7.In view of the aforestated reasons, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

02.01.2023

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Internet:Yes

Index:Yes/No

Speaking/Non speaking order

To:

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- 1.The Judicial Magistrate – II,
Kallakurichi.
- 2.The Inspector of Police,
Thiyagadurgam Police Station,
Kallakurichi District.
Crime No.20 of 2022.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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