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CRL O.P. No.17113 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

Crl. O.P. No.17113 of 2022

and

Crl. M.P. Nos.10368 and 10369 of 2022

1. S. Ramasamy S/o. Sengodan
 2. R. Nanthakumar S/o. Ramasamy
 3. Pappathi W/o. Ramasamy
 4. P. Loggeswari W/o. Panneerselvam
- Petitioners / Accused

Vs.

1.

1. State represented by-

The Sub-Inspector of Police,
Vennandur Police Station, Namakkal District.

2. Periyasamy S/o. Sengodan. Respondents / Complainants

PRAYER: - The Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for records in C.C. No.206 of 2020 pending on the file of Judicial Magistrate, Rasipuram and to quash the same.

For Petitioners - Mr. S. Kaithamalai Kumaran

For Respondents - Mrs. G.V. Kasthuri,
Additional Public Prosecutor [for R1]



CRL O.P. No.17113 of 2022

Mr. W. Camyles Gandhi [for R2]

ORDER

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This petition has been filed by the petitioner to quash the proceedings pending in C.C. No.206 of 2020 pending on the file of Judicial Magistrate, Rasipuram.

2. The case of the prosecution is that on 12.02.2020, the 2nd respondent lodged a complaint as against the petitioners for the alleged offences under Sections 147, 294(b), 323 and 506(2) of IPC. Based on the complaint, FIR has been registered in Cr. No.39 of 2020 and thereafter, the 1st respondent police investigated the matter and filed final report and the said final report is hereby challenged.

3. The learned counsel appearing for the petitioners would contend that the 2nd respondent has given a false complaint as against the petitioners and the 1st respondent has registered the case under Sections 147, 294(b), 323 and 506(2) of IPC and thereafter, the matter was investigated by the 1st respondent police and they filed final report for the offences punishable under Sections 147, 294(b), 323 and 506(2) of IPC.



CRL O.P. No.17113 of 2022

In fact, the respondent police have not conducted proper investigation and a counter complaint has also been given by the 4th petitioner as against the defacto complainant's family in Cr. No.40 of 2020 and thereafter, the said FIR was closed as 'mistake of fact' and against which, protest petition was filed and the same is also pending, that the petitioners have not committed any offences and a false case has been registered against the petitioners and there is no ingredients to attract the provisions of Sections 147, 294(b), 323 and 506(2) of IPC and therefore, the pending CC proceedings are abuse of process of law and the same is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the 1st respondent would submit that there is a property dispute between the parties and the petitioners assaulted the defacto complainant and thereby, he sustained injuries and abused him in unparliamentary words and caused criminal intimidation and therefore, the 2nd respondent lodged a complaint before the 1st respondent police and based on the complaint, the FIR has been registered in Cr. No.39 of 2020 and a counter complaint



CRL O.P. No.17113 of 2022

was also filed against the defacto complainant and the same was registered in Cr. No.40 of 2020 and thereafter, the matter was investigated as per the investigation, the said Cr. No.40 of 2020 was closed as 'mistake of fact' and against the said final report, protest petition was filed before the jurisdictional magistrate and the same is pending for adjudication, that as per the final report, there are prima facie material available as against these petitioners and thereby, the trial Court has taken cognizance under Sections 147, 294(b), 323 and 506(2) of IPC and therefore, the petitioners have to face trial and the petition is not maintainable and the same is liable to be dismissed.

5. The learned counsel appearing for the 2nd respondent has also reiterated the arguments of the learned Government Advocate and also he prayed for the dismissal of this petition.

6. This Court heard both sides and perused the materials available on record.



CRL O.P. No.17113 of 2022

WEB COPY

7. Upon perusing the records and hearing the arguments, it is observed that based on the complaint given by the defacto complainant, the 1sts respondent registered the case in Cr. No.39 of 2020 for the offences under Sections 147, 294(b), 323 and 506(2) of IPC and thereafter, a counter complaint was also given by these petitioners against the defacto complainant's family and the same was registered in Cr. No.40 of 2020 and thereafter, the police investigated the case and closed the case in Cr. No.40 of 2020 as 'mistake of fact' and filed final report as against these petitioners under Sections 147, 294(b), 323 and 506(2) of IPC.

8. This Court perused the entire materials. On perusal of materials, there are prima facie materials available to constitute the offences. The veracity of the statement of the witnesses and genuinity of the documents cannot be decided at this stage and the investigation officer also obtained wound certificates. Therefore, at this stage, the genuinity of the documents cannot be decided and it needs elaborate trial



CRL O.P. No.17113 of 2022

and the petitioners have to face trial. There are no sufficient grounds raised by the petitioner to quash the proceedings and the grounds raised by the petitioner are nothing but defence to be taken before the trial Court. Therefore, this Court is declined to quash the proceedings as against these petitioners. At this juncture, the learned counsel appearing for the petitioners brought to the knowledge of this Court that, in the counter case, protest petition is pending. While so, if any cognizance is taken based on the protest petition, the Trial Court has to follow the procedures laid down in *Nathilal's* case of the Hon'ble Supreme Court. However, considering the nature of offences and the age of the parties, this Court is inclined to dispense with the personal appearance of the petitioners before the Trial Court and the Trial Court is at liberty to take steps for the appearance of the petitioners as and when their presence is required in accordance with law.

9. In the result, this criminal original petition is dismissed with the above observations. No costs. Consequently, the connected miscellaneous petitions are closed.



CRL O.P. No.17113 of 2022

04.09.2024

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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

1. The Judicial Magistrate, Rasipuram
2. The Sub-Inspector of Police,
Vennandur Police Station, Namakkal District.
3. The Public Prosecutor, High Court, Madras.

P.DHANABAL,J
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CRL O.P. No.17113 of 2022

CRL O.P. No.17113 of 2022

04.09.2024