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Crl.O.P.No.22163 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL.O.P.No.22163 of 2022 and
Crl.M.P.No.14291 of 2022

1. Ramayee
2. Raji
3. Palanisamy

... Petitioners

Vs.

- 1.State Rep. by
The Inspector of Police,
Namakkal Police Station,
Namakkal.
(Crime No.68 of 2022)

2. R.Madhesh,
S/o.K.Raman

... Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal and quash the charges made in the final report filed in C.C.No.179 of 2022.

For Petitioners : Mr.S.Sheik Ismail

For Respondent 1 : Mrs.G.V.Kasthuri
Additional Public Prosecutor

For Respondent 2 : Mr.R.Rajesh

ORDER



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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal, which taken cognizance for the offences punishable under Sections 294(b), 323, 324, 427 & 506(i) of IPC.

2. The case of the prosecution is that on 02.02.2022 at about 12.30p.m. the Defacto-complainant gave a complaint by stating that the petitioners have abused and used obscene words and also damaged house tiles and assaulted the defacto-complainant and caused injuries and also they have beaten the Defacto-complainant and they caused criminal intimidation and thereby FIR has been registered in Crime No.68 of 2022. Thereafter, the 1st respondent had conducted detailed investigation and they filed final report and the trial Court had taken cognizance as against the petitioners for the offences punishable under sections 294(b), 323, 324, 427 & 506(i) of IPC in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal, against which the present Criminal Original Petition has been filed to quash the proceedings in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal.

3. The learned Counsel for the petitioners would contend that there is a civil dispute pending between the parties and in fact the property belongs to the



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petitioners, due to the civil dispute, the defacto-complainant gave a false complaint against these petitioners. These petitioners also lodged a complaint against the Defacto-complainant and others. In which FIR has been registered in Crime No.73 of 2022, the said case is a counter complaint filed against the defacto-complainant. Even as per the FIR and the final report, there are no specific averments to constitute the offences punishable under sections 294(b) & 506(i) of IPC. Therefore, the pending proceedings in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal is clear abuse of process of law. He further contended that these petitioners have not committed any offences as alleged by the complainant and they have been falsely implicated in the case. There are no prima facie materials available as against the petitioners to proceed with the case. In fact, the 1st respondent has not conducted proper investigation and they have not followed police standing order in respect of case in counter. Therefore, the pending proceedings in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the 1st respondent would contend that these petitioners were arrayed as accused based on the complaint given by the 2nd respondent and thereafter, the 1st respondent



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had conducted detailed investigation and filed a final report, based on the final report, the trial Court had taken cognizance as against the petitioners for the offences punishable under sections 294(b), 323, 324, 427 & 506(i) of IPC in C.C.No.179 of 2022 on the file of the Judicial Magistrate-I, Namakkal. Further, as against the Defacto-complainant, the petitioners gave a complaint, based on that complaint, the respondent police have registered FIR in Crime No.73 of 2022. In both the cases, final reports were filed and now the cases are posted for examination of witnesses. Therefore, at this stage, the petitioners have to face the trial and the present Criminal Original Petition is liable to be dismissed.

5. The learned Counsel for the 2nd respondent would contend that these petitioners have uttered obscene words against the 2nd respondent and they also threatened the 2nd respondent with dire consequences. Therefore, the 2nd respondent lodged a complaint before the 1st respondent. The learned Counsel for the 2nd respondent had adopted the arguments of the learned Additional Public Prosecutor appearing for the 1st respondent and he prayed to dismiss the present Criminal Original Petition.

6. Heard both side. Perused all the materials available on record.



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7. It is the admitted fact that there is a counter case is pending against the defacto-complainant, in which charge sheet was filed and the same was taken cognizance in C.C.No.369 of 2022 on the file of the Judicial Magistrate-I, Namakkal for the offences punishable under sections 294(b), 323, 324 & 506(i) of IPC and the same is pending for the examination of witnesses. Since there is case in counter, both the cases have to be heard by the same Court by adopting dictum laid down by the Hon'ble Supreme Court of India in the case of *Nathilal vs State of U.P.* reported in *(1990) Supp SCC 145*. Moreover, as per the final report, there are prima facie material available to proceed with the case as against the petitioners and the investigation agency also produced wound certificate for the injured persons. Though, the certificate reveals that the injuries are simple in nature and this case needs elaborate trial, since there is a case in counter. Therefore, the petitioners have to face the trial. The learned Judicial Magistrate-I, Namakkal is directed to adopt the procedures laid down by the Hon'ble Supreme Court of India in the case of *Nathilal vs State of U.P.* reported in *(1990) Supp SCC 145* at the time of hearing of the cases in C.C.No.179 of 2022 & C.C.No.369 of 2022 in accordance with law.

8. In view of the above discussion, this Court is not inclined to quash the



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proceedings. Accordingly, this criminal original petition is dismissed

Consequently, connected miscellaneous petition is closed. No costs.

20.09.2024

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

gvn

To

1. The Judicial Magistrate-I, Namakkal

2.The Inspector of Police,
Namakkal Police Station,
Namakkal.
(Crime No.68 of 2022)

3.The Public Prosecutor,



High Court of Madras

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P.DHANABAL,J.

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