



WEB COPY



CRL O.P. No.29691 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

CORAM

The Hon`ble Mr. Justice P.DHANABAL
Crl. O.P. No.29691 of 2022

and Crl. M.P. Nos.18198 and 18199 of 2022

1. Pitchaimuthu S/o. Gangamuthu Poosari
2. K. Vasanth C/o. Kombaiyan ... Petitioners / Accused 1 & 2

Vs.

1. State represented by:

The Inspector of Police,
Gangavalli Police Station, Salem District.

[Cr. No.116 of 2021] ... Respondent / Complainant

2. Kangamuthu S/o. Periyasamy ... 2nd Respondent / Defacto
Complainant

PRAYER: The Criminal Original Petition is filed under Section 482 of

Criminal Procedure Code to call for records and to quash the proceedings

in C.C. No.63 of 2022 pending on the file of the Judicial Magistrate

Court No.II, Attur, Salem.

For Petitioners	:	Mr. R. Marudhachalamurthy
For Respondents	:	Mr. S. Vinothkumar [for R1] Government Advocate (Crl. Side)



WEB COPY



CRL O.P. No.29691 of 2022

No appearance [for R2]

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the proceedings in C.C. No.63 of 2022 on the file of the Judicial Magistrate Court No.II, Attur, Salem.

2. The case of the prosecution is that the defacto complainant lodged a complaint on 13.04.2021 stating that he owned half acre of agricultural land adjacent to the petitioner's land, who possessed 2 ½ acres. There is a pathway running between the land of Perumal Gounder and there was a negotiation to purchase land for the pathway from the said Perumal Gounder. The said Perumal Gounder refused to give pathway at the instigation of Pitchaimuthu. On 03.04.2021 at about 4 p.m., the defacto complainant along with Arunachalam asked the Perumal Gounder to give the pathway to reach the land. At that time, the said Pitchai Muthu along with one Vasanth came there and assaulted with hands and also abused with obscene words and caused criminal intimidation. Thereby, he lodged complaint and the respondent police have registered the FIR in Cr. No.116 of 2021 for the offences under

2/7



CRL O.P. No.29691 of 2022

Sections 294(b), 323 and 506(2) of IPC and thereafter, they investigated the case and filed final report.

3. The learned counsel appearing for the petitioners would contend that there is a civil dispute pending between the parties and thereby, a false complaint has been lodged against the petitioner. The petitioners have not committed any offence as alleged in the FIR and the charge sheet. The 1st respondent police have not investigated the matter properly and filed charge sheet without applying the mind. Even according to the charge sheet, there is no any ingredients to constitute the offence under Sections 294(b), 323 and 506(2) of IPC and the allegations are vague and bald and therefore, the pending proceedings are abuse of process of law.

4. The learned Government Advocate (Criminal side) appearing for the 1st respondent would contend that civil dispute is pending between the parties, thereby, on the date of occurrence, this petitioner abused the defacto complainant with obscene words, assaulted the defacto complainant and caused criminal intimidation, thereby, he gave a



CRL O.P. No.29691 of 2022

complaint. Based on the complaint, the 1st respondent police have registered the FIR in Cr. No.116 of 2021 for the offences under Sections 294(b), 323 and 506(2) of IPC and thereafter, they conducted elaborate investigation. As per the investigation, there are prima facie materials available to proceed the case further as against the petitioners and thereby, they filed the charge sheet before the Trial court and the trial court has also taken cognizance in C.C. No.63 of 2022. Therefore, only based on the prima facie materials, the trial Court has taken cognizance for the offences as the petitioners abused with filthy language, injuries caused by them and for the criminal intimidation and hence they have to face the trial and the petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. On Perusal of the records, it is seen that the defacto complainant has given a complaint as against these petitioners alleging that there was a pathway dispute between the petitioner and one Perumal Gounder. When the petitioner asked pathway and made quarrel with Perumal Gounder, who was under the custody of the defacto complainant, at the



CRL O.P. No.29691 of 2022

time, he questioned about the same, the petitioners abused the defacto complainant in filthy language, caused criminal intimidation and also assaulted him. On careful perusal of the entire records, they revealed that there is no any specific overt act as against the 2nd petitioner namely Vasanth and even according to the statement of the defacto complainant, the 1st petitioner only abused with obscene words, assaulted and also caused criminal intimidation. There is no specific allegation as against the 2nd petitioner and all the allegations are only levelled as against the 1st petitioner. The trial Court failed to consider that no any material as against the 2nd petitioner to proceed with the case further and to constitute the offences under Sections 294(b), 323 and 506(2) of IPC. Therefore, this petition is liable to be dismissed as against the 1st petitioner and the pending proceedings as against the 2nd petitioner without any material is abuse of process of law. Therefore, this Court is inclined to allow this petition as against the 2nd petitioner and to dismiss the petition as against the 1st petitioner.

7. Therefore, the Criminal Original Petition is allowed with respect to the 2nd petitioner and the pending proceedings in C.C. No.63 of 2022



CRL O.P. No.29691 of 2022

as against the 2nd petitioner is quashed and this Criminal Original Petition is dismissed with respect to the 1st petitioner.

8. Accordingly, the Criminal Original Petition is partly allowed.

No costs. Consequently, the connected miscellaneous petitions are closed.

25.09.2024

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

P.DHANABAL,J
mjs

To

1. The Judicial Magistrate Court No.II, Attur, Salem.
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police,
Gangavalli Police Station, Salem District.



WEB COPY



CRL O.P. No.29691 of 2022

CRL. O.P. No.29691 of 2022

25.09.2024