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CrI.O.P.No.29876 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.29876 of 2024

and

CrI.M.P.Nos.16822 and 16824 of 2024

1. Vellaiyan
2. Prasanthkumar ... Petitioners

Vs.

1. The State
Rep.by the Inspector of Police,
Magudanchavadi Police Station,
Salem District.

2. Kathiravan ... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to call for the records pertaining to S.C.No.212 of 2023 pending on the file of the Sub Court, Sankari and quash the same as illegal, incompetent and without jurisdiction by allowing the present Criminal Original Petition.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1



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ORDER

This Criminal Original Petition is filed to quash the charge sheet in S.C.No.212 of 2023 pending on the file of the Sub Court, Sankari.

2. Learned counsel for the petitioners submitted that due to family dispute in sharing and enjoying the property, which was orally partitioned between the brothers, there was an altercation between the family members and that the second respondent herein has foisted a false complaint against the petitioners and the first respondent/Police registered a case in Crime No.33 of 2023 for the offences under Sections 294(b) and 304 IPC and charge sheet was also filed against them as S.C.No.212 of 2023 before the Sub Court, Sankari. He further submitted that without any *prima facie* evidence, the petitioners have been arrayed as A1 and A2, which is *per se* illegal.

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

4. On a perusal of the charge-sheet and statements recorded from



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the list of witnesses under Section 161(3) Cr.P.C., this Court finds that *prima facie* there are allegations made against the accused and there is also a specific over act attributed against the petitioners and it is a matter for trial and hence, this Court is not inclined to entertain this petition by invoking Section 528 BNSS Act, 2023. However, the petitioners are at liberty to take all their defences before the trial Court in S.C.No.212 of 2023.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

28.11.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Sub Judge,
Sub Court, Sankari.
2. The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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