



CRL OP(MD). No.2496 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**Date : 14.02.2024**

**CORAM**

**The Hon`ble Mr.Justice M. DHANDAPANI**

**CRL OP(MD) No.2496 of 2022 and  
Crl.M.P.No.1856 of 2022**

1. N. Ravi  
2. R.Jothi

... Petitioners

**Vs**

1. The Inspector of Police,  
Thallakulam Police Station,  
Madurai City,  
(Crime No.974/2019)

2. Sakthivel

... Respondents

**PRAYER :-** Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records connected with the charge sheet in C.C. No.309 of 2021 pending on the file of the learned Judicial Magistrate No.II, Madurai and quash the same.

For Petitioners : M/s. K. Naveenthara  
For Respondents : M/s.P. Kottaichamy for R1  
Government Advocate (Crl, side)

M/s. M.Deepa Jothi for R2  
for M/s. R. Manoharan



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## **ORDER**

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This Criminal Original Petition has been filed to quash the chargesheet in C.C. No.309 of 2021 pending on the file of the learned Judicial Magistrate No.II, Madurai.

2.The case of the petitioner is that the first petitioner is the brother of the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> petitioner is the wife of the first petitioner. The first petitioner's brother Pandi was allotted with Plot No.241 and Plot No.240 was allotted to their maternal grandmother Mariammal. Therefore, the first petitioner along with his brother constructed houses and is in possession and enjoyment. While so, the 2<sup>nd</sup> respondent, in order to grab the property, has preferred a civil suit and obtained an exparte decree against the petitioners. Challenging the same, the petitioners preferred an appeal and the same is pending. While so, the 2<sup>nd</sup> respondent has given a private complaint and on the strength of the same, an FIR came to be registered against the petitioners under Sections 294(b), 427, 447 and 506(II) IPC by the respondent police. On completion of investigation, chargesheet has been filed in CC No. 309/2021 for quashing which the petitioners are before this Court.



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3. The learned counsel for the petitioners would submit that the first petitioner is working as a Cook in Boys Hostel and on the date of occurrence, he was in duty and hence, the complaint preferred by the 2<sup>nd</sup> respondent has no legs to stand. He would further submit that when civil suit was decreed exparte, challenging the same, the petitioners preferred an appeal and while pending appeal, the registration of case against the petitioners, without verifying the fact that civil dispute is pending, is per se illegal and liable to be quashed. On these grounds, the learned counsel prays for interference.

4. The learned counsel for the 2<sup>nd</sup> respondent would submit that there are materials available against the petitioners to prove the allegation that they trespassed into the land of the 2<sup>nd</sup> respondent and threatened him with dire consequences. He would further submit that the offences alleged are triable in nature and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



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5. However, the learned Government Advocate (Crl. Side) would submit that the petitioners and the brother of the first petitioner were allotted the property by the slum clearance board and after the demise of the first petitioner's maternal grandmother, as legal heirs, the properties were devolved upon the petitioner's brother Pandi as elder brother. He would further submit that there are civil dispute pending between the parties. He would also concede that on the date of occurrence, the first petitioner was on duty as he is a cook in the boys hostel.

6. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

7. It is also to be seen that the petitioners along with the brother of the first petitioner were allotted the properties by the slum clearance board and they were in possession and enjoyment. The 2<sup>nd</sup> respondent has created a settlement deed dated 10.09.2007 as if the grandfather of the 1<sup>st</sup> petitioner has gifted the properties to the 2<sup>nd</sup> respondent and as such, a settlement deed was registered in Doc.No.3962/2007. While so, the petitioners have demolished their house and started new construction. At



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that juncture, in the absence of the petitioners, the 2<sup>nd</sup> respondent has approached the civil court for permanent injunction and obtained an exparte decree on 23.01.2018, which was challenged by the petitioners in an appeal and the same is pending.

8. It is also pertinent to note that the petitioners have filed a writ petition for a direction to the respondent authorities for issuance of no due certificate and also to execute a sale deed in favour of the 1<sup>st</sup> petitioner, which was disposed of by this Court by issuing a direction to the petitioner to approach the authorities for payment and on receipt of the said payment, the 2<sup>nd</sup> respondent was directed to execute a sale deed in the name of legal heirs of the deceased Mariammal. While so, the legal heirs of Mariammal, have rightly approached this Court and the authorities for the properties in dispute. When that be the case of the petitioners, alleging that the petitioners have trespassed into the land of the 2<sup>nd</sup> respondent and threatened the 2<sup>nd</sup> respondent is untenable. As far as the allegation that on the date of the alleged incident, according to the 2<sup>nd</sup> respondent, the petitioners trespassed into the land of the 2<sup>nd</sup> respondent and intimidated him and threatened with dire consequences is



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concerned, the petitioners would state that the first petitioner was on duty on the date of alleged incident, which was confirmed by the learned Government Advocate (Crl.side) as well and hence, the criminal trespass and the alleged intimidation were also negatived. It is seen that to prove the offence under Section 294(b) IPC, mere utterance or obscene words are not sufficient, but there must be a further proof to establish that it was to the annoyance of others. However, mere words without any intention will not constitute the offence as it would not sufficient to constitute the said offence.

9. Here in the present case, rightly the parties have agitated their rights before the civil court by filing suit and appeal and the petitioners have also approached the slum clearance board for settlement of the properties by filing a writ petition. When that be so, the alleged trespass, criminal intimidation and threat alleged to have made by the petitioners were not proved by the 2<sup>nd</sup> respondent. For the offence under Section 506(II) IPC also, though it is stated by the 2<sup>nd</sup> respondent that the petitioners have assaulted him, no wound certificate or discharge summary has been filed to prove the said fact, hence, the offence under



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Section 506(II) IPC has no legs to stand.

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10. For all these reasons, the chargesheet filed in C.C.No.309/2021 pending on the file of the Judicial Magistrate No.II, Madurai, necessarily has to be quashed.

11. In the result, the criminal original petition is allowed and the C.C.No.309/2021 pending on the file of the Judicial Magistrate No.II, Madurai is quashed against the petitioners herein. Consequently connected Miscellaneous Petition is closed.

**14.02.2024**

NCC : Yes/No

Index : Yes/No

RR

TO

1.The Judicial Magistrate No.II,  
Madurai,

2.The Inspector of Police,  
Thallakulam Police Station,  
Madurai City.



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**M.DHANDAPANI. J**

**RR**

**ORDER  
IN  
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