



Crl.O.P.(MD)No.2374 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.2374 of 2022

and

Crl.M.P.(MD)Nos.1745 & 1746 of 2022

1.Yasarkan

2.Aybu @ Aybu Khan

... Petitioners

Vs.

1.The State represented by
The Inspector of Police,
Kayanallur Police Station,
Tirunelveli.
(Presently Tenkasi District)
(Crime No.451 of 2016)

2.K.Poosaitai

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.234 of 2019 on the file of the learned Judicial Magistrate, Tenkasi and quash the same as illegal so far as the petitioners/A4 & A5 are concerned.



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For Petitioners : Mr.K.Navaneetharaja

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.234 of 2019 on the file of the learned Judicial Magistrate, Tenkasi against the petitioners/A4 & A5 are concerned.

2.The case of the petitioners is that they are the native of Kadayanallur and the second respondent's husband used to collect money in the name of the business and cheated the persons from whom he received the money. The second respondent's husband had cheated the first petitioner and promised to repay the money. But he failed to repay the money and hence, the petitioners warned him that they would lodge a complaint against him. Due to the same, in order to escape from his liabilities, the second respondent's husband instigated the second respondent and she lodged the present complaint by alleging that there was money dispute between the second respondent's husband and one



Abdul Kadhar, due to which, the accused searched whereabouts of the husband of the second respondent. On 16.12.2016, at about 12.40 pm., the accused persons trespassed into the house of the second respondent, abused her in filthy language and also threatened her with dire consequences. Based on the complaint, a case in Cr.No.451 of 2016 was registered by the first respondent police for the offence punishable under Sections 147, 148, 294(b), 452 & 506(ii) IPC. After completion of investigation, the first respondent police filed charge sheet, which was taken on file in C.C.No.234 of 2019 by the learned Judicial Magistrate, Tenkasi. Challenging the same, the present petition came to be filed.

3.The learned counsel appearing for the petitioner would submit that the first respondent filed charge sheet for the offence under Sections 147, 148, 294(b), 452, 506(2) IPC. He would further submit that Sections 147 and 148 IPC relates to the rioting and armed with deadly weapons, Section 294(b) IPC relates to the using filthy language in public, Section 452 IPC relates to the house trespass and wrongful restrain and Section 506(ii) IPC relates to criminal intimidation. He would also submit that on bare perusal of FIR and charge sheet would reveal that there is no



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ingredients to constitute such offences as per allegations made in the complaint. He would further submit that there are only two eye witnesses arrayed in the list of witnesses and other witnesses are mahazer witnesses. He would also submit that there is no specific overt act as against the petitioners. Therefore, he would pray to quash the impugned proceedings pending in C.C.No.234 of 2019 on the file of the learned Judicial Magistrate, Tenkasi.

4.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that admittedly there is money transaction between the petitioners and the husband of the second respondent, for which, the petitioners and other accused trespassed into the house of the second respondent, abused and threatened her and hence, the second respondent preferred a complaint. He would further submit that after registering FIR, the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. He would also submit that there are materials available to proceed with the case as against the petitioners herein and at the



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threshold, the criminal proceedings cannot be quashed and hence, he would pray to dismiss the present petition.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side) appearing for the first respondent police.

6.On perusal of records reveals that there was money transaction between the petitioners and husband of the second respondent. In order to collect the money, the petitioners and others went to the house of the second respondent and they threatened her with dire consequences and also abused her in filthy language. Thereafter, a case was registered and charge sheet was filed for the offence under Sections 147, 148, 294(b), 452, 506(2) IPC. As rightly pointed out by the learned counsel for the petitioner, Sections 147 and 148 IPC relates to rioting and armed with deadly weapons. However, no weapon was recovered from the petitioners herein. Hence, there is no ingredients to attract the said offences. In respect of the allegations of trespassing into the house, even as per the charge sheet contents, the petitioners entered into the house, in



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order to enquire about the whereabouts of husband of the second respondent. Mere entering into the house does not constitute any offence and all other allegations are bald in nature.

7.Considering the above facts and circumstances of the case, this Court is of the view that there is no useful purpose will serve in allowing the trial to be continued. Accordingly, the proceedings in C.C.No.234 of 2019 on the file of the learned Judicial Magistrate, Tenkasi is hereby quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

30.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate, Tenkasi
- 2.The Inspector of Police,
Kayanallur Police Station,
Tirunelveli.
(Presently Tenkasi District)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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