



Crl.O.P.(MD)No.15661 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15661 of 2024
and
Crl.M.P.(MD)No.9834 of 2024

1.Gowthaman

2.Durai @ Durairaj

... Petitioners

Vs.

1.State of Tamilnadu through
The Inspector of Police,
Dindigul Town South Police Station,
Dindigul District.
(Crime No.253 of 2024)

2.Satheesh Babu

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records in respect of Crime No.253 of 2024 on the file of
the first respondent and quash the same as illegal.

For Petitioner : Mr.S.Srikanth

For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)



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ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the FIR in Crime No.253 of 2024 pending on the file of the first respondent.

2. The petitioners are the accused 1 and 2 in Crime No.253 of 2024 on the file of Town South Police Station, Dindigul.

3. It is evident from the records that on the basis of the complaint given by the second respondent, FIR came to be registered in Crime No. 253 of 2024 on 30.07.2024 against the petitioners for the alleged offences under Sections 329(3), 296(b), 115(2), 118(1) and 351(3) BNS.

4. The case of the prosecution is that on 29.07.2024 at about 10.00 a.m., the petitioners entered into the premises of the second respondent's property and attempted to lay fence and when the same was questioned by the second respondent, the petitioners have attacked him and caused injuries and also caused criminal intimidation.



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5. The main contention of the petitioners is that civil suit is pending between the parties, that the property in dispute is belonging to the petitioners and as such, the question of trespassing does not arise and that the second respondent has not suffered any injury and as such, the question of attracting the offences under Sections 115(2) and 118(1) BNS does not arise at all.

6. As rightly contended by the learned Government Advocate (Criminal Side), there are specific allegations against the petitioners in the FIR and it is matter for investigation.

7. The learned counsel appearing for the petitioners would submit that the allegations in the FIR are baseless and that the Advocate Commissioner appointed in the civil suit accompanied with the Surveyor and VAO has inspected the property and submitted a report. He would further submit that since the second respondent and his relatives picked up stones and damaged the JCB vehicle, the petitioners were forced to lodge a complaint against them and on that basis, counter FIR came to be registered in Crime No.254 of 2024 for the alleged offences under



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Sections 329(3), 296(b), 324(4), 115(2) and 351(3) BNS.

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8. Since it is a case and case in counter, the first respondent is directed to follow the direction issued by the Hon'ble Full Bench of this Court in ***Crl.O.P.Nos.4587 of 2023 (Batch) dated 08.08.2024*** and find out the aggressor and file final report before the jurisdictional Court.

9. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed.

19.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Inspector of Police,
Dindigul Town South Police Station,
Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Order made in
Crl.O.P.(MD)No.15661 of 2024
and
Crl.M.P.(MD)No.9834 of 2024

Dated: 19.09.2024