



Crl.O.P(MD).No.19352 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM :

THE HON'BLE MR JUSTICE D. BHARATHA CHAKRAVARTHY

Crl.O.P(MD).No.19352 of 2022 and
Crl.M.P(MD).Nos.13121 and 13123 of 2022

1. Abdul Malik
2. Mahamed Kani
3. Syed Abudahir
4. Shahul Hameed
5. Mohammed Abbash
6. Mohamed Kani
7. Yasar Arabath
8. Mohammed yasin
9. Jamal Mohamed
10. Shahul Hameed
11. Shethick
12. Mohammed Rabick
13. Sathick
14. Rajmohan

... Petitioners

Vs.

Shahul Hammed

... Respondent

PRAYER:- Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records pertaining to the complaint in C.C.No.77 of 2022
on the file of the Judicial Magistrate, Manapparai and quash the same.

For Petitioners

: Mr.T.Vadivelan



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For respondent : No appearance

ORDER

This Criminal Original Petition is filed to quash the private complaint filed under Section 200 of the Code of Criminal Procedure in C.C.No.77 of 2022 on the file of the Judicial Magistrate, Manapparai.

2. The case of the complainant is that when the complainant was undertaking his work, the petitioners / accused joined together and came and threatened him and also abused him in filthy language having sexual overtones. Therefore, the complaint was filed since the police did not register a complaint on the basis that there is a civil dispute pending.

3. The learned counsel appearing on behalf of the petitioners would submit that firstly, there is a civil suit pending between the parties and by a Judgment, dated 13.03.2022 in A.S.No.1 of 2020, the place in question has been declared to be a common pathway by the concerned Civil Court. Therefore, when the scuffle arose only because of the storing all the construction materials in the common pathway, when the petitioners objected to the same, the complaint was given.



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4. According to the learned counsel for the petitioners upon preliminary enquiry, the police found that the matter was civil in nature and no action was taken. Subsequently, the private complaint is filed. The learned counsel would further submit that it can be seen that even as per the complaint, it is not specifically mentioned that the petitioners used abusive language in any public place. Therefore, the Offence under Section 294 (b) IPC is not made out. As far as the threat is concerned, the learned Counsel by producing a photograph, whereby the de facto complainant has duly completed his construction, would contend that if the threat has been there, the work could not have progressed and the very fact that the petitioners had progressed with their work and completed the construction would demonstrate that except for the apprehension of the complainant, there is no any perceivable threat.

5. Even though notice was served on the respondent, the respondent / de facto complainant had not chosen to appear before this court.

6. The grounds raised by the petitioners and the arguments made by the learned counsel for the petitioners are not controverted. If such



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arguments that the entire episode did not take place in a public place and that there was no imminent or real threat perception and the construction where ahead as usual and the defacto complainant completed the construction is taken to be on the face value, then this Court has no other option to quash the complaint on the ground that when the dispute between the parties is predominantly civil in nature. On the mere apprehension of the complaint when criminal colour is sought to be given, this Court under Section 482 Cr.P.C., can interfere.

7. Considering the overall facts and circumstances of the case, this Criminal Original Petition stands allowed and the complaint in C.C.No. 77 of 2022 on the file of the Judicial Magistrate, Manapparai stands quashed. Consequently, the connected Miscellaneous Petitions are closed.

19.08.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

The Judicial Magistrate, Manapparai



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D. BHARATHA CHAKRAVARTHY, J.,

Trp

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