

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.09.2017
CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH
CRL.O.P.No.7338 of 2015
and M.P.Nos.1 & 2 of 2015

1.Alamelu
2.Jayaraman
3.Dr.Vasudevan

...Petitioners

-Vs-

Vanaja

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, is direct to call for the records with respect of the complaint filed by the respondent herein in STC.No.2212/2014 on the file of District Munsif cum Judicial Magistrate, Omalur and quash the same as far as the petitioner's concerned.

For Petitioners : Mr.R.Nalliyappan

O R D E R

This criminal original petition has been filed to call for the records in STC.No.2212/2014 on the file of District Munsif cum Judicial Magistrate, Omalur and quash the same.

2. Heard Mr. R.Nalliyappan, learned counsel appearing for the petitioner.

3. Though notice has been served on the respondent and her name is printed in the cause list, today, none appeared for the respondent.

4. It is the case of the petitioners that a piece of land, measuring about 24 x 120 sq.ft, comprised in Survey No.56/2 Pagalpatti Village belongs to the petitioners, is under dispute and the respondent herein had also filed a suit in O.S.No.412 of 2011 before the District Munsif cum Judicial Magistrate, Omalur.

5. The learned counsel for the petitioner submits that the suit filed for permanent injunction came to be dismissed for default. In the mean time, the respondent herein had given various problems to the petitioners in connection with the enjoyment of the disputed land. The petitioners have also given 3 complaints on 27.11.2013, 18.12.2013 and 18.05.2014 against

the respondent herein in this regard.

6. In the meantime, the respondent herein seems to have filed a private complaint in S.T.C.No.2212 of 2014 against the petitioners and 7 others alleging that on 21.11.2013, at about 11.00 a.m., the petitioners had committed offences under Section 323, 427, 147 IPC, owing to which, the petitioners came to be admitted as inpatients. On a perusal of the discharge summary filed by the respondent as a document, it is seen that the respondent herein was admitted on 27.11.2013 and subsequently discharged on 29.11.2013. As per the discharge summary, she has stated to have been assaulted by 2 male persons. However, in the impugned complaint, the respondent herein had stated that 7 persons including the petitioners had assaulted her. The occurrence date as given in the complaint does not tally with the date of admission in the hospital, which is evidenced from the discharge summary filed along with the private complaint. In my view, the respondent not having approached the police complaining of such an incident and by filing private complaint has been done if malafidely for the purpose of wrecking vengeance on the petitioner and hence the petitioner had given a police complaint on the same incident. The discrepancies in the date of occurrence as evidenced in the complaint as well as in the discharge summary further adds to the doubt with regard to the genuinity of the petitioner's complaint. In such an event, it would not be proper to make the petitioner to face the ordeal of trial.

7. Hence, the Criminal Original Petition is allowed and the proceedings in S.T.C.No.2212 of 2014 on the file of the District Munsif cum Judicial Magistrate, Omalur, is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrp

To

The District Munsif cum Judicial Magistrate,
Omalur

+1 cc to M/s.R.Nalliappan Advocate sr 69316

CRL.O.P.No.7338 of 2015

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