



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR**

WEB COPY

CRL.OP.(MD) No.11769 of 2017

and

CRL.MP(MD) No.8108 of 2017

1. Shekmujipurahman
2. N.Sheikuduman
3. Raheem
4. Hameedha
5. Mariyam @ Pappathy

...Petitioners/A1, A3, A7, A8, A9

Vs.

1. The Inspector of Police,  
Kadayanallur Police Station,  
Tirunelveli District.

2. Bakeer Mydeen ... Respondents/Complainant

**PRAYER:** Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records pertaining to the FIR in Cr.No.140/17 and quash the same pending on the file of the respondent police, Kadayanallur.

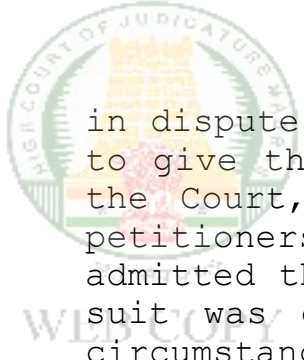
|                     |                                                      |
|---------------------|------------------------------------------------------|
| For Petitioners     | : Mr.R.Ramasamy                                      |
| For Respondent No.1 | : Mr.K.Anbarasan,<br>Government Advocate (Crl. Side) |

**ORDER**

The Criminal Original Petition has been filed to quash the entire records pertaining to the FIR in Cr.No.140 of 2017.

2.The first petitioner claims certain rights in respect of the property where there was a house and it is stated that the first petitioner purchased this property from the de-facto complainant's mother. A Civil Suit was filed in O.S.No.559 of 2011 by the de-facto complainant to declare the registered sale deed in favour of the first petitioner as null and void and not binding on the plaintiff and that the de-facto complainant is the owner of the property and for consequential injunction and it is stated that the same was dismissed.

3.It was thereafter, the petitioners state that the de-facto complainant, demanded a sum of Rs.5,00,000/- from the first petitioner on 28.03.2017 for vacating the property, which is



in dispute. It is further stated that the first petitioner refused to give the money and it is also stated that as per the order of the Court, the de-facto complainant handed over the key to the petitioners in the presence of the witnesses. The petitioner also admitted that thereafter, the house which is the subject matter of suit was demolished and materials were removed. It is in this circumstances, the de-facto complainant preferred a complaint alleging that the de-facto complainant and his family were forcibly vacated from the said premises and that their house was also demolished. The complaint was also for physical assault and for damages caused to the property of the de-facto complainant. From the reading of the complaint, it clearly disclose a cognizable offence and it is not in dispute.

4.The learned Counsel for the petitioners relied upon the findings of the Civil Court, wherein, it is stated that the de-facto complainant has not proved that he is in possession. The fact whether the de-facto complainant was in possession of the property or not is in dispute.

5.Having regard to the nature of the case, even admitted by the petitioners before this Court, the findings of the Civil Court in the suit is contrary to the version of petitioners. This Court on the basis of the probabilities of the case and materials produced by the petitioners before this Court, regarding their right over the property in dispute, cannot quash the criminal complaint. In the said circumstances, this Court is not inclined to entertain this petition. Hence this Criminal Original Petition is dismissed, as devoid of merits. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,  
Kadayanallur Police Station,  
Tirunelveli District.

2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Cmr

MK/SV MMS/SAR-2/2P/3C/22.09.2017

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