



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.2969 of 2017
and Crl.M.P.No.2263 /2017

1.Mahalingam

2.Anuradha

3.Ravichandran

4.Balu

.. Petitioners/Accused No.1 to 4

Vs.

1.State rep. by the Inspector of Police,
Swamimalai Police Station,
Thanjavur District.
Crime No.52/2017

.. Respondent/Complainant

2.Thirugnanam

.. Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. Praying to call for the records of the First Information Report bearing Crime No.52 of 2017 on the file of the Inspector of Police, Swamimalai police station, Thanjavur District and quash the same as illegal.

For Petitioner : Mr.S.Palanivelayutham

For Respondents : Mr.K.Anbarasan for R1
Government Advocate (crl.side)

ORDER

This criminal original petition has been filed to quash the case in Crime No.52/2017 on the file of the 1st respondent police.

2. Mr.S.Veeramani, Sub Inspector of Police, Swamimalai Police Station, Thanjavur District, is present before this Court.

3. On the complaint lodged by one Thirugnanam/2nd respondent, the respondent police registered a case in Crime No.52/2017 on 07.02.2017 under Sections 294(b), 506(ii), 379 IPC against the



petitioners herein. Challenging which, the petitioners are before this Court with this petition.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) for the 1st respondent.

WEB COPY

5. On a reading of the FIR, it is seen that there are civil disputes between the petitioner and the de-facto complainant with regard to the property in question. It is the allegation of the de-facto complainant that on 07.02.2017 around 5.00 a.m., he heard some sound and when he went to his land, he found the accused persons there and they had illegally removed 7 pipes belonging to him and other building materials that were kept by the de-facto complainant for erecting a Bore Well. When the de-facto complainant questioned the accused, it is stated that they threatened the de-facto complainant.

6. The learned counsel for the petitioner contended that the property in question is in absolute possession of the petitioner and that the entire case has been foisted. He has also placed reliance upon the order in C.M.A.No.5/2016, wherein, the lower Appellate Court has ordered status quo.

7. This Court gave its anxious consideration to the rival submissions.

8. Admittedly, there are civil disputes between the petitioner and the de-facto complainant. But, however, it is the specific allegation of the de-facto complainant that on 07.02.2017 at 5.00 a.m., he found the accused stealthily removing 7 pipes and other building materials from the property. Thus, when there are prima facie materials in the FIR, the same cannot be quashed in the light of the law laid down by the Hon'ble Supreme Court in **State of Haryana and others v. Bhajan Lal** and others reported in **1992 Supp (1) SCC 335**. Hence, this petition is dismissed with a direction to the Inspector of Police to conduct a thorough investigation in Crime No.52/2017 and during the investigation, if it is found that the women folk have been falsely implicated, it is needless to state that they be excluded from the prosecution. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar



To

1.The Inspector of Police,
Swamimalai Police Station,
Thanjavur District.

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

+1 cc to Mr.S.Palanivelayutham , Advocate in SR.No. 15687

RR

AE/SKN RSK/28.03.2017/3P/4C

Crl.O.P.(MD)No.2969 of 2017
and Crl.M.P.No.2263/2017
16.03.2017