



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2017

CORAM

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THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

Crl.O.P.(MD) No.8878 of 2017 and
Crl.M.P.(MD)No.6008 of 2017

1. Ramalingam
2. Mahalakshmi
3. Pravin

... Petitioners/Accused Nos.1 to 3

-Vs-

- 1.State represented by the Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur.
(In Crime No.210 of 2017) ...Respondent/Complainant

- 2.Jagapar Ali ... Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records pertaining to the First Information Report in Crime No.210 of 2017 on the file of the first respondent and quash the same in so far as the petitioners are concerned.

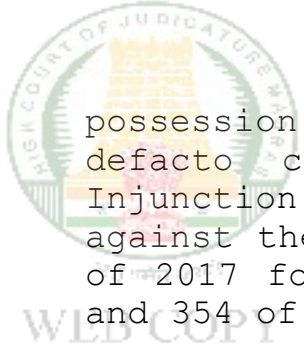
For Petitioners : Mr.A.Mohamed Yusuf
For R-1 : Mr.K.Anbarasan,
Government Advocate(Crl.side).

O R D E R

This Criminal Original petition is filed for quashing the First Information Report in Crime No.210 of 2017 on the file of the first respondent in so far as the petitioners are concerned.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the first respondent.

3. The case of the petitioner is that the defacto complainant is the tenant of the first petitioner. Already the defacto complainant filed a civil Suit in O.S.No.176 of 2017 before the District Munsif Court, Kumbakonam, for permanent Injunction restraining the respondents from interfering with his



possession otherwise than by due process of law. Since the defacto complainant has not obtained any order of Interim Injunction in the civil court, the present complaint was given against the petitioner and the case was registered in Crime No.210 of 2017 for the alleged offence under Sections 147, 323, 506(ii) and 354 of I.P.C.

4. The case of the petitioner is that the complaint itself was given after an inordinate delay of 36 hours without any explanation and that the petitioners were given Anticipatory Bail, after recording the fact that there was no injury. He pointed out certain discrepancies in the criminal complaint and the facts assumed by the petitioners with regard to rights of parties in respect of the disputed property. Though the petitioners have pointed out certain facts which may not go well with the complaint, it is not for this Court to deal with the factual issues at this stage for quashing the First Information Report. From the reading of the complaint, it is clear that the defacto complainant alleged specific overt acts against the petitioner. The probability of the incident and the truth or otherwise cannot be assumed and the question whether the alleged offences were committed is a matter for evidence. Unless the defacto complainant is given an opportunity to prove the incident, it is not possible for deciding the criminal case.

5. Having regard to the earlier Judgments of this Court and Hon'ble Supreme Court on the scope and jurisdiction of this Court under Section 482 of Cr.P.C., this is not a fit case in which the power to quash the criminal case, in Crime No.210 of 2017 can be exercised. Hence, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. Inspector of Police,
Kumbakonam Taluk Police Station, Thanjavur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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