

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.31636 of 2012  
and  
Crl.M.P.No.1 & 2 of 2012

1. M.Shanmugasundaram  
2. S.Kodhainayagi .... Petitioners  
Vs.  
1. The Inspector of Police,  
T-15, SRMC Police Station,  
Ambattur, Chennai.  
2. R.Selvanarayanan .... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in C.C.No.179 of 2012 pending on the file of the Judicial Magistrate No.1, Poonamallee and quash the same.

For Petitioners : Mr.Abdul  
for M/s Nathan and Associates

For 1st Respondent : Mr.T.Shunmugarajeswaran,  
Government Advocate (Crl. Side)

For 2nd Respondent : Mr. V.Meenakshi Sundaram

ORDER

The petitioners are the accused in C.C.No.179 of 2012 on the file of the Judicial Magistrate No.1, Poonamallee. The 2nd respondent/ complainant lodged a complaint with the Inspector of Police, T-15, SRMC Police Station, Porur, alleging that the petitioners abused him in filthy language and also threatened to kill him, wielding a knife to him. The said complaint was registered in Crime No.474 of 2012 of the T-15, SRMC Police Station, Porur against the petitioners herein for

the alleged offences punishable under Sections 294(b), 506(ii) of the Indian Penal Code. The Inspector of Police, after investigation, laid a final report against the petitioners herein for the above mentioned offences.

2. The petitioners are the husband and wife. The petitioners in the instant petition would contend that the first petitioner is a tenant under the 2nd respondent in the house bearing No.10, Hospital Road, Senthil Nagar, Porur on a monthly rent of Rs.6,000/- and that a sum of Rs.60,000/- was also paid towards rental advance. According to the petitioners, since the 2nd respondent attempted to evict the petitioners unlawfully, the first petitioner filed a suit in O.S.No.22 of 2009 before the District Munsif, Poonamallee for a permanent injunction restraining the 2nd respondent from interfering with his peaceful possession and enjoyment of the suit property, except under due process of law. It is the contention of the petitioners that the dispute between the petitioners and the 2nd respondent is purely civil in nature and that the prosecution, without considering this, has filed a final report in C.C.No.179 of 2012 before the Judicial Magistrate No.1, Poonamallee.

3. Mr.Abdul, learned counsel appearing for the petitioner would contend that even if the entire complaint is taken to be true, no offence under Section 294(b) and 506(ii) of the Indian Penal Code would be made out and that a civil dispute has been given a colour of criminal case and therefore, the entire proceedings in C.C.No.179 of 2012 on the file of the Judicial Magistrate No.1, Poonamallee is liable to be quashed.

4. Per contra, the learned Government Advocate (Crl. Side) would contend that the Inspector of Police investigated the case and laid a charge sheet based on the statements of the witnesses and that there is no ground to quash the proceedings in C.C.No.179 of 2012 on the file of the Judicial Magistrate No.1, Poonamallee.

5. A perusal of the complaint and other records shows that there are prima-facie materials available on record to proceed further against the petitioners herein in C.C.No.179 of 2012 on the file of the Judicial Magistrate No.1, Poonamallee. All the allegations levelled by the petitioners are disputed question of facts, which cannot be gone into under Section 482 of the Code of Criminal Procedure. In the facts and circumstances of the present case, I do not find any reason to quash the proceedings and hence this petition is liable to be dismissed.

6. In the result, this Criminal Original Petition is dismissed.  
Consequently, connected miscellaneous petition are closed.

Sd/-  
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

mst

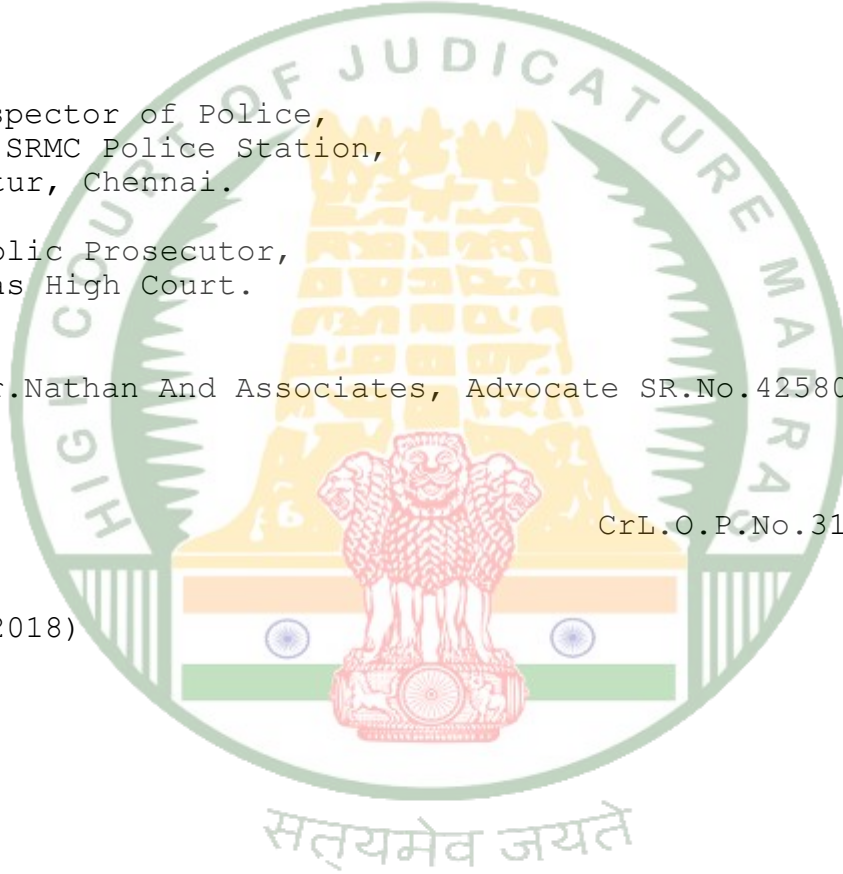
To

1. The Inspector of Police,  
T-15, SRMC Police Station,  
Ambattur, Chennai.
2. The Public Prosecutor,  
Madras High Court.

+1cc to Mr.Nathan And Associates, Advocate SR.No.42580

CrL.O.P.No.31636 of 2012

GN(13/07/2018)



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