



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
ORDER RESERVED : 06.12.2018
ORDER PRONOUNCED: 17.12.2018
CORAM:

THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.24677 of 2015
and
M.P(MD)No.1 of 2015
and
Crl.M.P(MD)No.5677 of 2018

1.Muthukrishnan
2.M.Hariharasudan ... Petitioners / A1 & A2

Vs.

1.Inspector of Police,
C-3 SS Colony Police Station,
Madurai City,
Madurai
Cr.No.680 of 2015 ... 1st Respondent / Complainant
2.R.Karmegam ... 2nd Respondent / Defacto Complainant

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code, to call for records relating to FIR in Crl.No.680 of 2015, dated 24.07.2015, on the file of the Inspector of Police, C-3 S.S..Colony Police Station and quash the same, as against the petitioners / A1 & A2.

For Petitioners : Mr.S.Manoharan

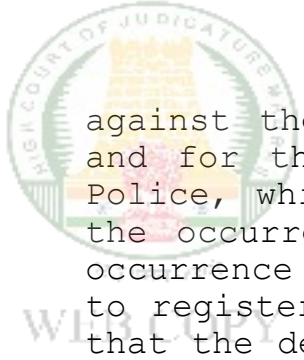
For Respondent 1 : Mr.S.Chandrasekar
Additional Public Prosecutor,

For Respondent 2 : Mr.N.Sudaresan

ORDER

This Criminal Original Petition has been filed praying to quash the F.I.R in Crime No.680 of 2015, dated 24.07.2015, on the file of the Inspector of Police, C-3 S.S..Colony Police Station, as against the petitioners / A1 & A2.

2. The learned counsel appearing for the petitioners would submit that the petitioners are A1 & A2. The case has been foisted

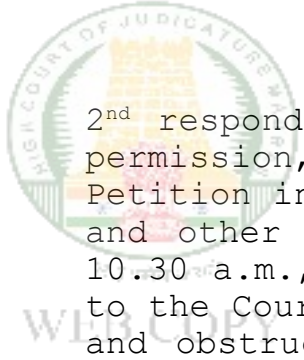


against them by the defacto complainant, as an offensive defence, and for the complaint given by the petitioners to the respondent Police, which had been registered in Crime No.681 of 2015. Though the occurrence in Crime No.681 of 2015 is earlier to the alleged occurrence in Crime No.680 of 2015, the respondent Police was forced to register the above case knowing it to be a false for the reason that the defacto complainant was an advocate at that point of time, who wielded muscle power.

3. The contention of the petitioners is that the petitioners are running a hotel in the name of "Hotel Gowry Krishna" at Bye-pass road, Madurai. On the southern side, there is a dispute with regard to small track of land and a civil case is pending. According to the petitioners, the 2nd respondent had deliberately put up a construction to an extent of 150 Sq.ft., on the Government Poromboke land in Sy.No.226/4C, which is now assigned Sy.No.226/3B, deliberately wanted to block the ingress and egress of the petitioners lodge, to extract money and to blackmail them. The respondent had also filed a Writ Petition against them for deviation in the construction. These things have been done by him to exert pressure and to extract money from the petitioners, which they have been resisting.

4. It is the further contention of the petitioners that on 24.07.2015, at about 10.00 a.m., the 2nd respondent, had destroyed the Italian Marbles, Granites and other building materials kept for their hotel and caused a damage to the value of Rs.3.25 Lakhs, claiming that "Are you giving complaint against me to the Revenue and Municipal Authorities to demolish the unauthorized construction?". The second respondent further warned that he would bring down the hotel by using bokline and force. When the petitioners filmed the acts of the 2nd respondent through mobile phone, the 2nd respondent got into his car, bearing Registration No.TN-58-AF-1469 and had locked himself. Thereafter, the petitioners informed the Police Control Room by contacting No.100. The Police had reached the scene of occurrence and took both the petitioners and 2nd respondent, to the Police Station. It is the known fact to the first respondent that when the petitioners as well as 2nd respondent proceeding to give a complaint on 24.07.2015, the 2nd respondent had come in his car viz. 'Nissan Terrano', bearing No.TN-58-AF-1469, in a running condition without any damages at that point of time, driven by the 2nd respondent, to the first respondent Police Station, but for the obvious reasons, on the influence of the second respondent, the first respondent had registered the above case against the petitioners alone, knowing it to be a false.

5. The learned counsel appearing for the 2nd respondent / defacto complainant would submit that the second respondent was residing at the bye-pass road in Sy.No.226/4C, opposite to Karuppannasamy Temple and he is running an Advocate Office in the said place. On the northern side, the accused herein along with others was creating disturbance and obstruction continuously for the



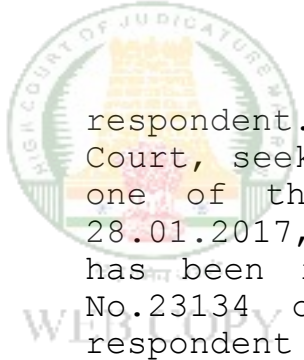
2nd respondent to run his office, by constructing a hotel, without permission, for which, the second respondent had filed a Writ Petition in W.P.(MD)No.9182 of 2015 and due to which the petitioners and other accused had developed enmity. On 24.07.2015, at about 10.30 a.m., when the second respondent was starting from his office to the Court at that time, the accused herein had assembled together and obstructed the car of the 2nd respondent, bearing Registration No.TN-59-A-1469, abused and threatened him to withdraw the writ petition filed against the hotel of the accused and also they had damaged the wind screen of the car, worth about to Rs.15,000/- for which, a case has been registered.

6. Adding further, the learned counsel for the 2nd respondent submits that the petitioners had originally constructed a building in Sy.No.225/3D. This land is situated on the northern side of the respondent's land in Sy.No.226/4. The building in which the respondent had put up a construction belongs to Rakkappa Konar. The petitioners initially took permission for housing plan residential permission. However, during the course of construction it was observed that the petitioners were constructed a hotel with lodging facility. The novel trees in and around the place had been cut down by the petitioners for which the respondent had given a complaint on 01.12.2014. The respondent had filed a Writ Petition before this Court for removal of unauthorized construction. Hence, there was animosity and motivation between the respondent and petitioners. The petitioners having money power, threatened the respondent with henchmen on 24.07.2015 for which the respondent had given a complaint to the respondent Police. The petitioners having threatened the respondent had cunningly lodged a counter complaint before the respondent police. Further, states that he is a normal and ordinary person, and he has got no physical strength to damage Italian Marbles and granites, as projected by the petitioners. He further submits that the land belongs to his grandmother Rakayee and he got the property by way of legal heirs, as per the Hindu Succession Act and he further contended that he had put up construction of 150 Sq.ft in the said place, and it is not a poramboke land.

7. The learned Additional Public Prosecutor appearing for the State would submit that the case against the 2nd respondent in Crime No.680 of 2015, charge sheet has been filed. He further admits that the occurrence in Crime No.681 of 2015 is earlier to occurrence in Crime No.680 of 2015.

8. I have heard the learned counsels appearing on either side and perused the materials available on record.

9. On perusal of the records would reveal the fact that the Revenue Authorities, by their letter, dated 13.10.2015, had confirmed that the land in which the 2nd respondent had put up a construction belongs to Highways Department. Further, there seems to be lot of litigations between the petitioners and the second

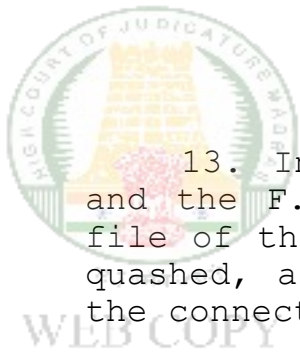


respondent. The petitioners filed several petitions before this Court, seeking Police protection to evict the second respondent. In one of the proceedings, this Court had been informed that on 28.01.2017, the encroached construction put up by the 2nd respondent has been removed, as per the orders of this Court in W.P.(MD) No.23134 of 2015 and knowing about the nature of the second respondent making false allegations. The entire demolition has been video graphed for proper and correct projection of happenings.

10. The petitioners had moved this Court by way of filing a petition in CrI.O.P.(MD)No.5140 of 2017 praying to take into a logical conclusion of their complaint, which was taken in Crime No.681 of 2015, which was thwarted and attempted to be delayed by the second respondent by adopting all means. Recording the same, this Court, by an order dated 24.02.2017, directed the respondent to complete the committal proceedings within a period of three months, noting the dilatory tactics adopted by the second respondent, Further, the second respondent had engineered the suit seeking somehow the Government Poromboke land of highways, the place in dispute in this case, had filed a suit. The Principal District Munsif in I.A.No.1105 of 2016 in O.S.No.511 of 2016 had rejected the plaint of the second respondent.

11. The 2nd petitioner had filed a Suit in O.S.No.186 of 2016 before the learned Additional District Judge, Madurai, seeking compensation for recovery of Rs.25,00,000/- towards damages and compensation from the second respondent and others in which, the second respondent is defendant No.1. The 2nd respondent in his evidence admits that damages has been caused to the hotel and the granite slabs and further the civil Court has given a finding, by directing the second respondent and his family members and other defendants to pay a sum of Rs.18,28,941/-, as damages, with interest. It was also brought to the notice of this Court that the 2nd defendant is the history sheeter, who has got several cases to his credit and the Bar Council of Tamil Nadu had initiated proceedings against him and after the disciplinary council proceedings, the Bar Council has removed him from the roll. In the disciplinary proceedings, the Civil Court finding has been taken note of the 2nd respondent damaging the hotel of the petitioners. Further, it is contended by the petitioners that the Madurai Corporation, by letter dated 09.09.2015 had categorically stated that in Sy.No.226/4C, no approval was given to the 2nd respondent and the land belongs to Highways Department and the Highways Department has to take necessary action.

12. Considering the rival submissions and the materials placed before this Court, it is found that the 2nd respondent is a person, who has got criminal cases to his credit, who is history sheeter, who is blot to the noble profession, the Bar Council had removed his name from the rolls, the occurrence in Crime No.681 of 2015 is earlier to occurrence in Crime No.680 of 2015, this Court has got no hesitation to quash the F.I.R in Crime No.680 of 2015.



13. In the result, the Criminal Original Petition is allowed and the F.I.R in Crime No.680 of 2015, dated 24.07.2015, on the file of the Inspector of Police, C-3 S.S..Colony Police Station, is quashed, as against the petitioners / A1 & A2 alone. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Inspector of Police,
C-3 SS Colony Police Station,
Madurai City,
Madurai

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

+2CC to Mr.N.Sudaresan, Advocate, SR.No.100578

+1CC to Mr.M.S.Suresh Kumar, Advocate, SR.No.100495

Cr1.O.P.(MD)No.24677 of 2015

and

M.P(MD)No.1 of 2015

and

Cr1.M.P(MD)No.5677 of 2018

17.12.2018

MPK

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