

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.29292 of 2015
and M.P.No.1 of 2015

1. Durai Kuppusamy
2. Durai Kesavan

... Petitioners/Accused 1 & 2

Vs.

- 1.The Deputy Superintendnet of Police,
CBCID, Vellore.
- 2.The State;
Represented by the Inspector of Police,
District Crime Branch, Vellore.

- 3.Abdul Sukur ... Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.473 of 2015, on the file of the learned Judicial Magistrate, Arakkonam and quash the same.

For Petitioners : M/s. S.Samuel Raja Pandian

For Respondents 1&2: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For Respondent-3 : Mr.S.Raveendran

O R D E R

This Criminal Original Petition has been filed by the petitioners seeking to quash in C.C.No.473 of 2015, pending on the file of the learned Judicial Magistrate - II, Arakkonam, Vellore District.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor for the respondents 1 and 2 and the learned counsel for the third respondent and perused the materials available on record.

3. The petitioners are arrayed as accused 1 and 2 in C.C.No.473 of 2015, pending on the file of the learned Judicial Magistrate - II, Vellore District, having been taken cognizance for the offences under Sections 448, 427 and 379 IPC.

4. It is seen from the charge sheet, the alleged occurrence took place on 13.12.1999 at about 11.30 a.m., in Vellore District. The crux of the allegation is that the petitioners along with 20 others had trespassed into the shop premises belonging to the third respondent/defacto-complainant and they had caused damage to the utensils and movable properties inside the shop to an estimated value of about Rs.1.50 lakhs and had thus committed offences under sections 448, 427 and 379 IPC. Thereafter, the third respondent/defacto-complainant lodged a police complaint only in the year 2010, but he has not given any explanation for delay in lodgement of complaint. It is also seen that the third respondent filed a direction petition before this Court in CrI.O.P.No.15872 of 2010 by an order dated 21.09.2010 and this Court directed the second respondent to conduct an enquiry, if cognizable offence is made out on the outcome of the enquiry. Thereafter, the second respondent police has registered a case in Crime No.2 of 2011 for the alleged offences under Sections 448 and 427 IPC. Therefore, on this ground alone the entire proceedings vitiated and it can not be sustained as against the petitioners.

5. Further, it is also seen that the third respondent has also filed a writ petition in W.P.No.6192 of 2003 before this Court, challenging the order passed by the learned District Revenue Officer, Vellore District and the said writ petition was also disposed of since the entire issues are civil in nature. Therefore, the entire impugned proceedings are clear abuse of process of law and it is liable to be quashed.

6. Considering the facts and circumstances of the case, this Court is inclined to allow this petition and the entire impugned proceedings in C.C.No.473 of 2015, pending on the file of the learned Judicial Magistrate-II, Arakkonam, Vellore District, is hereby quashed.

7. Accordingly, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (CJ Conf)

//True copy//

Sub Assistant Registrar

msm

To

1. The Judicial Magistrate-II, Arakkonam, Vellore District

2. -do-Through' The Chief Judicial Magistrate, Vellore.

3. The District Revenue Officer, Vellore.

4. The Judicial Magistrtae, Arakkonam.

5.The Deputy Superintendent of Police,
CBCID, Vellore.

6.The Inspector of Police,
District Crime Branch, Vellore.

7.The Public Prosecutor, High Court, Madras.

+1cc to Mr.S.Raveendran, Advocate SR.No.40435

CrI.O.P.No.29292 of 2015

KK(CO)
GMY(24/05/2019)



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