



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.5190 of 2017
and
Crl.M.P.No.3858 of 2017

M.Chitra

...Petitioner/Accused

Vs.

1.Jayakandhan

2.The State rep.by
Inspector of Police,
F-1, Chinthadripet P.S.,
Chinthadripet,
Chennai-102.

(Cr.No.558 of 2016)

...Respondents/Defacto Complainant/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to quash the FIR No.558 of 2016 dated 08.08.2016 as against the petitioner which is on the file of the 2nd respondent.

For Petitioner : Mr. I.Abrar Mohamed Abdullah

For R 1 : No Appearance

For R 2 : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Cr.No.558 of 2016, pending on the file of the 2nd respondent Police.

2.There are totally two named accused persons and others shown in the FIR and the petitioner is ranked as A-2.



3.The case of the prosecution is that the de facto complainant was in possession of the property as lessee and he had gone away with his wife to Melmaruvathur. When he returned back, he found that the accused persons along with others were demolishing the property and had caused damages to all the movable properties belonging to the de facto complainant. Therefore, a complaint was given before the respondent Police and based on the same, an FIR has been registered for an offence under Section 448, 427 and 506(i) IPC.

4.The learned counsel for the petitioner submitted that the property belongs to the temple and the petitioner and her family members are lessees in the property for a long time. The de facto complainant had requested some of his movable properties to be kept inside the building since his house was damaged during floods in December 2015. The petitioner and her family out of humanitarian consideration permitted the materials to be kept inside the house. All of sudden, the de facto complainant refused to move out of the place and started threatening the petitioner and her family members to give money.

5.The house was already in a dilapidated condition and it became worse due to the civil work that was done during the Metro Rail Project. A report has also been given by the CMRL regarding the condition of the building.

6.The learned counsel for the petitioner further submitted that the de facto complainant attempted to attack the petitioner and her family members, and therefore a complainant was given before the respondent Police on 06.08.2016, and the same was taken on file and an FIR was registered against him in Cr.No.558 of 2016. As a counter blast, the de facto complainant had given a false complaint on 08.08.2016, and an FIR has been registered by the respondent Police even without conducting an enquiry.

7.The 1st respondent has been served with notice and his name has also been printed in the cause list. However, there is no representation for the 1st respondent.

8.Heard the learned counsel appearing on behalf of the 2nd respondent.

9.Taking into consideration the facts and circumstances and also of the fact that the entire dispute is civil in nature and the 1st respondent has attempted to give it the criminal colour, this Court is of the considered view that the entire criminal proceedings is an abuse of process of law.



In the result, the FIR in Cr.No.558 of 2016, pending on the file of the 2nd respondent Police is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Inspector of Police,
F-1, Chinthadripet P.S.,
Chinthadripet,
Chennai-102.

2. The Public Prosecutor,
High Court of Madras.

+1cc to Mr. I.Abrar Mohamed Abdullah, Advocate sr.62049

CRL.O.P.No.5190 of 2017

mp(co)
nr 04/09/2019