



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRL.O.P.(MD)No.15412 of 2015 and

M.P.(MD)No.1 of 2015

WEB COPY

1. Y.Justin
 2. Pushpabai
 3. N.Suresh Kumar
 4. N.Vijayakumar
- ... Petitioners/Accused Nos.1 to 4

Vs.

1. The State rep. by,
The Inspector of Police,
Marthandam police station,
Kanyakumari District.
 2. R.R.Jeenamol
- ... Respondent/Complainant
... Respondent/
Defacto Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.92 of 2015 dated 18.02.2015 on the file of the first respondent police station for the offences under Sections 120(B), 147, 148, 447, 341, 451, 294(b), 427, 395, 398 and 506(ii) of I.P.C. and Section 4 of Women Harassment Act 2002 and quash the same as illegal so far as the petitioners are concerned.

For Petitioners : Mr.T.Lajapathi Roy
For R-1 : Mr.A.Robinson,
Government Advocate(Crl.Side)
For R-2 : Mr.L.Shaji Chellan

O R D E R

The petitioners are figuring as accused in Crime No.92 of 2015 registered on the file of the Inspector of Police, Marthandam police station, Kanyakumari District, for the offences under Sections 120 (B), 147, 148, 447, 347, 451, 294(b), 427, 395, 398 of I.P.C. and Section 4 of Women Harassment Act 2002.

2. The defacto complainant is the second respondent herein. To quash this First Information Report, this criminal original petition has been filed.

3. Heard the learned counsel on either side.



4. The defacto complainant and the third petitioner herein are the wife and husband. It appears that their marital relationship had come under strain and there are proceedings pending between them. Be that as it may, the marital home in which the second respondent is said to be residing stands in the name of her mother-in-law/the second petitioner herein, that is the mother of her husband N.Suresh Kumar. The claim of the defacto complainant is that the house in question was constructed with her funds. Be that as it may, the defacto complainant's mother-in-law sold the said property in favour of the first petitioner herein vide a registered sale deed dated 10.12.2014. The first petitioner would claim that he had effected mutation in the relevant revenue records. The allegation of the defacto complainant is that she is residing in the said property and that on the occurrence date, that is on 18.02.2015, a group of lawyers and others armed with deadly weapons, trespassed into the property and committed criminal intimidation and damaged the household articles and utensils.

5. The petitioners would claim that when the first petitioner is the owner of the property in question, he cannot be charged with the offence of trespass. They would also point out that even according to the defacto complainant, the property in question does not stand in her name.

6. The specific case of the defacto complainant is that she had been residing in the property in question along with two children and that in all the relevant records such as Adhar card, this is reflected. When the allegation is one of interfering with the possession of the defacto complainant, the same is factual in nature and it cannot be gone into in proceedings under Section 482 of Cr.P.C.

7. The contentions put forth by the petitioners' counsel are not sufficient for invoking the inherent powers of this Court for quashing the impugned First Information Report. I am not inclined to quash the impugned proceedings.

8. The criminal original petition stands dismissed, accordingly. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1. The Inspector of Police,
Marthandam police station,
Kanyakumari District.

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

+1 CC to Mr.L. SHAJI CHALLAN, Advocate (SR-100269[F] dated
21/11/2019)

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-100643[F] dated
22/11/2019)

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