

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.15024 of 2019
and
Crl.M.P.No.7368 of 2019

1.Kathiresan @ Kathiravan,
S/o.Late Balasubramani

2.Jeeva,
S/o.Late Balasubramani

3.Kavitha,
W/o.Kathiravan

4.Santhamani,
W/o.Late Balasubramani

... Petitioners

versus

1. The State represented by,
The Inspector of Police,
Kamanaickenpalayam Police Station,
Tiruppur District.
(Crime No.203 of 2019)

2. K.Bhagavathykrishnan,
S/o.Karuppa Gounder

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the records in Crime No.203 of 2019 pending on the file of the first respondent police and quash the same as against the petitioners.

For Petitioners : Mr.M.Nithyanandam
for Mr.R.Vivekananthan

For Respondent No.1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For Respondent No.2 : Mr.S.Sathiyandarayanan

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for the records in Crime No.203 of 2019 pending on the file of the first respondent police and quash the same as illegal.

2. Heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the first respondent police and the learned counsel appearing for the second respondent.

3. The petitioners 1 to 4 herein are the accused in Crime No.203 of 2019 pending on the file of the first respondent police. The above said First Information Report has been registered against the petitioners alleging that the petitioners had committed an offence under Section 380 of IPC.

4. The learned counsel appearing for the petitioners would submit that the petition mentioned F.I.R. has been registered based upon the complaint dated 22.05.2019 given by the second respondent. Prior to the lodging of the said complaint, on 20.05.2019 itself, the very same second respondent lodged one another complaint against the petitioners, in which he made allegation that the petitioners are refused to pay Rs.50 lakhs to him. He would further submit that in the complaint dated 20.05.2019, the second respondent herein categorically mentioned as on 16.03.2019 itself, the entire dairy farm was handed over to the petitioners.

5. After mentioning the above, the complaint pertains to F.I.R. has been registered in Crime No.203 of 2019, in which he had mentioned as on 18.05.2019, the petitioners and others unlawfully came to his dairy farm and stolen away 38 cows. He would further submit that in his two complaints, he made contradictory allegations against the petitioners and without enquiring the same, the first respondent police registered a case, which is nothing but an abuse of process of law.

6. The learned Additional Public Prosecutor appearing for the first respondent police had conceded the submissions made by the learned counsel appearing for the petitioners.

7. Now, on considering the said submissions with the relevant records, it is true that the complaint dated 20.05.2019 given by the second respondent before the first respondent Police, he had stated that in the month of March 2019 itself, entire dairy farm was handed over to the petitioners and therefore, the question of theft does not arise on 17.05.2019. Therefore, the inconsistency found in the complaint given by the

second respondent will prove the fact that the present F.I.R. has been registered based upon the false allegations. Hence, registering a case against the petitioners for the previous enmity is nothing but an abuse of process of law. Therefore, this case is squarely applies to the category no.7 of the guidelines given by our Hon'ble Apex Court in Bajanlal's case reported in 1992 SCC (Cr1) 426.

8. In view of the above, this Criminal Original Petition is allowed and F.I.R. registered against the petitioners in Crime No.203 of 2019 on the file of the first respondent police is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To

1.The State represented by,
The Inspector of Police,
Kamanaickenpalayam Police Station,
Tiruppur District.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.15024 of 2019
and
Cr1.M.P.No.7368 of 2019

KK(CO)
RMP(03/12/2020)