

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.17299 of 2014

1.Malleeswari
2.Krishna Mohan ... Petitioners/Accused

Vs.

State by The Inspector of Police,
C-3 Seven Wells Police Station,
Chennai
(Crime No.1929 of 2013) ...1st Respondent/Complainant

2.K.Arunachalam ...2nd Respondent/
Defacto Complainant

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.1579 of 2014 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioners : Mr.V.V.Sairam
For Respondents : Mr.C.Iyyapparaj for R1
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking to call for the records in C.C.No.1579 of 2014 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai and to quash the same.

2.The petitioners are wife and husband and they are the accused in C.C.No.1579 of 2014 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai. The second respondent is the defacto complainant.

3.The case of the prosecution is that the petitioners are alleged to have entered into the premises of the second respondent and scolded the second respondent using filthy language, thereby, the second respondent lodged the complaint.

4.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution. He would further submit that the second respondent was a tenant under the vendor of the first petitioner's property. Immediately after purchase of the property, the first petitioner demanded rent from the second respondent, but the second respondent neglected to pay the rent. Thereafter, the petitioners

came to know that the second respondent has let another person as sub-tenant in the portion. Hence, the first petitioner filed R.C.O.P.No.166 of 2008 and the same is pending before the XIV Small Causes Court, Chennai.

5.The learned counsel appearing for the petitioners would further submit that the second respondent has filed a suit in O.S.No.7752 of 2007 for injunction that he should not be dispossessed except by due process of law. When the said suit is pending, in order to defeat the rights of the petitioners, the second respondent has lodged the complaint and the law enforcing agency also without properly investigating the matter has filed the final report.

6.The learned counsel appearing for the petitioners would further submit that the necessary ingredients required for implicating the petitioners as accused are not attracted since for the very same relief, civil suit is pending in between the parties. Accordingly, he prayed for allowing the criminal original petition.

7.The learned Additional Public Prosecutor appearing for the first

respondent would submit that, on verification, it is revealed that the second respondent/ defacto complainant has passed away and no one came forward to implead themselves as legal heirs of the estate of the second respondent. Further it is revealed that the property was registered in favour of the petitioners. Even after the death of the defacto complainant, the law enforcing agency is entitled to continue with the case. In the present case, necessary ingredients required for the offence is established. Accordingly, he prayed for dismissal of the criminal original petition.

8.Heard the submissions made on either side and perused the materials available on record.

9. Admittedly, the petitioners are the landlord and the second respondent was the tenant. There are civil dispute pending before the appropriate civil forum in R.C.O.P.No.166 of 2008 filed by the first petitioner and O.S.No.7752 of 2007 filed by the second respondent. Further, it is revealed that the property in question has been registered in favour of the petitioners.

10. The allegation against the petitioners is that they have trespassed into the property enjoyed by the second respondent and scolded the second respondent using filthy language. However, no evidence was placed to prove that the alleged occurrence attract penal provisions. Further, the second respondent/ defacto complainant has passed away. Hence, forcing the petitioners to face the trial is un-sustainable one.

11. In view of all the above, I have no hesitation to allow this criminal original petition. This criminal original petition is accordingly allowed and the proceedings in C.C.No.1579 of 2014 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai, is hereby quashed. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

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To

1. The VIII Metropolitan Magistrate,
George Town, Chennai.

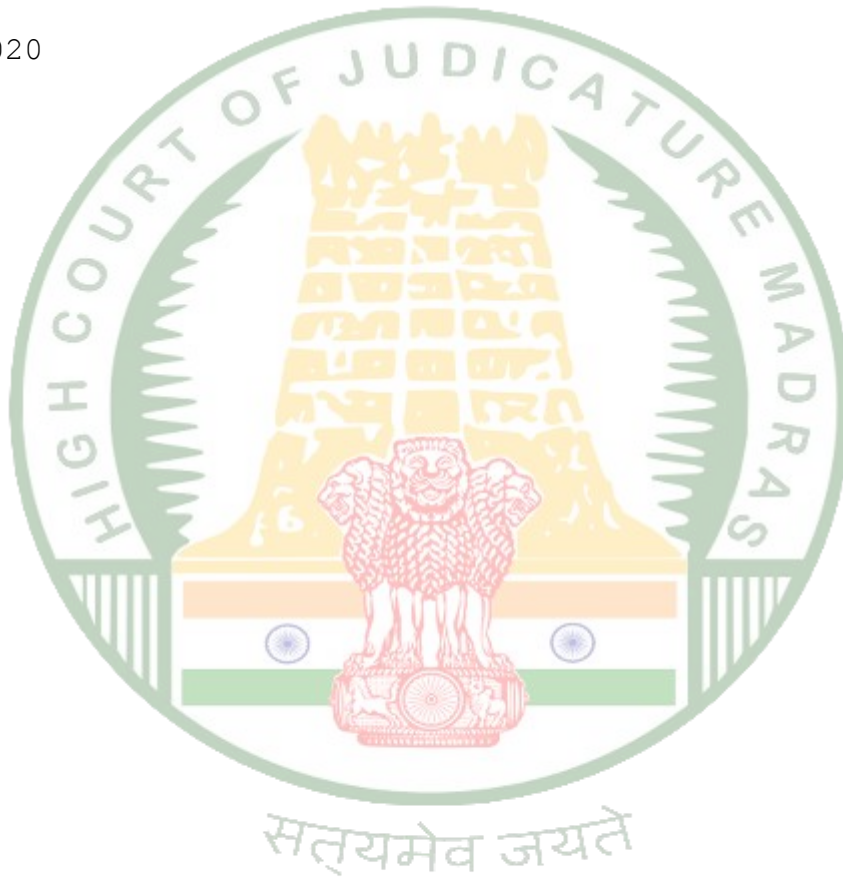
2. The The Inspector of Police,
C-3 Seven Wells Police Station,
Chennai
(Crime No.1929 of 2013)

3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1 cc to Mr.V.V.Sairam Advocate sr11215

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