



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 31.08.2020**

**CORAM:**

**THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN**

**CRL OP(MD)No.9101 of 2020**

**and**

**CRL MP(MD)No.4281 of 2020**

WEB COPY

1.Moses John @ Soundarajan

2.Maria Suseela

... Petitioners / A1 and A2

Vs.

1.State represented through

The Inspector of Police,  
Ramjee Nagar Police Station,  
Trichy

(In Crime No.40 of 2020)

... Respondent / Complainant

2.P.R.Sathiyamoorthi

... Respondent / Defacto  
Complainant

**PRAYER:** Petition filed under Section 482 of Criminal Procedure Code, to call for the records of impugned First Information Report in Crime No.40 of 2020, on the file of the Respondent No.1 Police Station and quash the same as illegal.

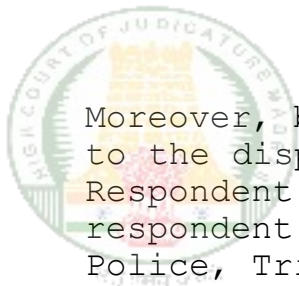
For Petitioner : Mr.S.M.A.Jinnah

For Respondent-1 : Mr.A.P.G. Ohm Chairma Prabhu  
Govt.Advocate

### **O R D E R**

This Criminal Original Petition has been filed praying to quash the First Information Report registered in Crime No.40 of 2020, on the file of the 1<sup>st</sup> respondent police, as illegal.

2. Today when the petition is came up for hearing, the learned counsel appearing for the petitioners would submit that the petitioners are arrayed as Accused Nos.1 and 2 in Crime No.40 of 2020, on the file of the 1<sup>st</sup> respondent police. Previous to the petition mentioned alleged occurrence, the petitioners and the defacto complainant are having the dispute over the lease agreement, dated 19.12.2010, through which, the petitioner herein leased out his property to the 2<sup>nd</sup> respondent. Further, while at the time the lease agreement was in force, the 1<sup>st</sup> petitioner sold the property to Accused No.3 viz., Dr.Prasad. Resultantly, the respondent No.2 has filed a Suit in O.S.No.239 of 2020, on the file of the learned IV Additional Subordinate Judge, Trichy and the same is pending.



Moreover, before registering the FIR, the 2<sup>nd</sup> petitioner herein came to the disputed property along with 5 or 6 persons and requested the Respondent No.2 to vacate the property. In this regard, the 2<sup>nd</sup> respondent lodged a false complaint before the Superintendent of Police, Trichy on 16.03.2020.

WEB COPY

3. The learned counsel for the petitioner would further submit that in order to wreck vengeance, the present complaint has been registered, based on a false complaint given by the 2<sup>nd</sup> respondent. The averments found in the FIR clearly disclose the fact that the story putforth by the respondent No.2 is a false one. Now, the allegations levelled by the respondent No.2 are baseless and at the same time, without verifying the factual aspect, on the inducement made by the respondent No.2, the 1<sup>st</sup> respondent herein registered the case, which is liable to be quashed.

4. The learned Government Advocate appearing for the respondent Police, on instructions, would submit that the averments found in the First Information Report will disclose the cognizable offence and therefore, filing the application to quash the F.I.R., by the petitioner before closing the investigation is not at all maintainable.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. Now on careful reading of the First Information Report it would reveal that the defacto complainant had clearly narrated the incident that during the time of occurrence 6 or 7 persons came with deadly weapons and unlawfully entered into the premises, which was kept under the control of the 2<sup>nd</sup> respondent. Further, in the course of same transactions, the security Anbukannan was assaulted and also a mobile phone was stolen away. So, the said averments will clearly disclose the cognizable offence. In the said circumstances, it is not in dispute that the investigation is in the threshold stage. At this juncture, it is relevant and useful to see the Judgment of our Hon'ble Apex Court in ***Sau. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra & Ors*** reported in (2019 SCC OnLine SC 182), wherein in paragraph No.5, it has been held as follows:-

"5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in



WEB COPY

conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are Sonu Gupta v. Deepak Gupta and Ors. 2015 (3) SCC 424. disclosed, there would be no justification for the High Court to interfere."

7. So, applying the said principles with the case in our hand, herein also as already observed that averments clearly constitute the cognizable offence and therefore, filing of the Criminal Original Petition is devoid of merits and the same is liable to be dismissed.

8. In the result, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,  
Ramjee Nagar Police Station,  
Trichy
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**CRL OP(MD)No.9101 of 2020**  
**31.08.2020**

VB (08.09.2020) 3P 3C