



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

Crl.O.P.(MD)No.10161 of 2020
and
Crl.M.P.(MD)No.4718 of 2020

1.Pitchai Murugan
2.Selvam
3.Kousalya
4.Tamil Selvi
5.Sivakumar

... Petitioners

Vs.

1.The State Rep. by
The Sub-Inspector of Police,
Rajathani Police Station,
Theni, Theni District.

2.Kannammal

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the impugned FIR in Crime No.242 of 2020, on the file of Sub-Inspector of Police, Rajathani Police Station, Aundipatty, Theni District and quash the same.

For Petitioners	: Mr.K.Appadurai
For R1	: Mr.R.Erottuchamy
	Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking the relief to call for the records in connection with Crime No.242 of 2020, on the file of the first respondent and quash the same as illegal.

2.The learned counsel appearing for the petitioners would submit that the petitioners herein are arrayed as Accused Nos.1 to 5 in Crime No.242 of 2020. When at the time of occurrence, the de facto complainant and others entered into a property which belongs to the fifth petitioner and only made attempt to assault the petitioners. In this regard, by suppressing all, the de facto complainant lodged the complaint against the petitioners, for which, the first respondent police without conducting an enquiry



registered the First Information Report, which is erroneous in law.

3.In respect to the ownership of Survey Nos.56/1, 56/2A and 56/1, the learned counsel for the petitioners alleges that the said property has been gifted to the fifth respondent. In order to substantiate the same, he has filed a copy of the document dated 15.03.2018, which is the settlement deed executed by one Azhagar @ Baskaran, in favour of the fifth petitioner. Now on going through the schedule of property, through the settlement deed only the property bearing Survey Nos.56/1B, 56/2A and 52/1C had been conveyed in favour of the fifth petitioner and therefore, the contention raised by the learned counsel appearing for the petitioner is entirely false in respect to the ownership of the property, in which, the alleged occurrence had happened.

4.Secondly, on going through the averments found in the FIR, it seems that during the time of occurrence, the petitioners herein unlawfully entered into the property which bearing the Survey Nos.56/1, 56/2A and 56/1 and abused the de facto complainant by using filthy language and made a life threat towards the de facto complainant. More particularly, during the time of occurrence, the petitioners herein attacked one Anu who is the daughter-in-law of the de facto complainant. Further, along with the fourth petitioner the third petitioner herein attacked the de facto complainant. The said circumstances would disclose the fact that during the time of occurrence, the petitioners herein committed the offences which is cognizable in nature. Therefore, registering the FIR against the petitioners is not having any irregularity.

5.At this juncture, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **Sau.Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others [Criminal Appeal No.255 of 2019, dated 12.02.2019]**, wherein it has been held as follows:-

'9. A perusal of the complaint discloses that prima facie offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused.'

6.Therefore applying the principle set out in the above referred judgment in this case, since the allegations levelled against the petitioners are factual one, it has to be decided only



at the time of trial.

7. In view of the above observations, I am of the considered opinion that it is not a fit case for quashing the First Information Report. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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 Sub-Inspector of Police,
Rajathani Police Station,
Theni, Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.10161 of 2020

and

Crl.M.P.(MD)No.4718 of 2020

23.09.2020

KG(CO)

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