



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.10694 of 2016 and
CRL.M.P.(MD)Nos.5259 & 5260 of 2016

Thirumalai Nainar

... Petitioner/Accused No.3

Vs.

1. The State represented by,
The Inspector of Police,
Perumal Puram police station,
Tirunelveli City.

(Crime No.142 of 2013) ... Respondent/Complainant

2. M.Selva Sekar

... Respondent/Defacto
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in C.C.No.308 of 2013 on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same.

For Petitioner

: Mr.R.Anand

For R-1

: Mr.A.Robinson,

Government Advocate(Crl. Side).

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the first respondent.

2. Though the defacto complainant has been served and his name is also printed in the cause list, he has not chosen to enter appearance.

3. The case of the defacto complainant is that the property bearing D.No.630E, Survey No.354, 14th Street, Thiyagaraja Nagar, Tirunelveli, was sold by accused No.1 in favour of the defacto complainant. There was some kind of arrangement between the parties and that the first accused was permitted to reside in the property for a little more while. The defacto complainant alleges that accused No.2 is the husband of the first accused. Accused Nos.1 and 2 did not vacate the property even three years after the sale deed



was registered. Therefore, on 01.10.2012 at about 7.00 a.m. the defacto complainant went to the house of accused Nos.1 and 2 calling upon them to vacate the house passively. Accused Nos.1 and 2 are said to have criminally intimidated the defacto complainant and accused No.3 is said to be an accomplice. With these allegations, the defacto complainant lodged a complaint before Perumalpuram police station and the same was registered Crime No.142 of 2013 for the offences under Sections 294(b), 406 and 506(ii) of I.P.C.

4. When the matter was taken up for hearing, the learned Government Advocate(Crl. Side) submitted that final report was filed and cognizance of the aforesaid offences was also taken by the jurisdictional Magistrate. The summon was issued to all the three accused.

5. The third accused has moved this Court for quashing the proceedings as far as he is concerned.

6. On a perusal of the statements recorded under Section 161 of Cr.P.C., it is seen that the primary allegations have been made only against accused No.1 Mahalakshmi and accused No.2 Ravindran. Even according to the complainant, this petitioner was not present in the scene of occurrence. A vague allegation is made that he was an accomplice. It appears that the petitioner had facilitated the transaction originally and that according to the defacto complainant, he is helping accused Nos.1 and 2 in not vacating the house.

7. I fail to understand as to how the criminal case was filed against the petitioner. Even if the entire case of the prosecution is taken at its face value, still no offence is made out. As rightly pointed out by the petitioner's counsel, the petitioner was no where in the picture. Therefore, continuance of the impugned prosecution as against the petitioner will only amount to an abuse of legal process. The impugned proceedings in this criminal original petition stand quashed as far as the petitioner is concerned.

8. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)



1. The Judicial Magistrate No.I,
Tirunelveli.
2. The Inspector of Police,
Perumal Puram police station,
Tirunelveli City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to Mr.R.ANAND, Advocate (SR-6969[F] dated 18/02/2020)

Cr1.O.P. (MD) No.10694 of 2016
17.02.2020

VB (03.06.2020) 3P 5C