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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.11.2021

Coram:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No. 11310 of 2015

M.P.No.1 of 2015

1. V. Chinnathambi
2. C. Ravi
3. Maadhu
4. Kumar
5. Chinnavan
6. G. Venkataraman
7. Palani
8. Raja

...Petitioners

Vs.

1. State,
Represented by Inspector of Police,
Dharmapuri B1 Town Police Station,
Dharmapuri
(Crime No.677 of 2007)
2. A.Kannadasan
(R2 impleaded vide order dated 25.11.2021)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the final report filed by the respondent in C.C.No. 40 of 2009 pending on the file of the Judicial Magistrate No. I, Dharmapuri.

For Petitioner : Mr.C.Umashankar for
Mr.M. Selvam

Respondents : Mr.C.E.Pratap (R1)
Government Advocate
Mr.V.Raghavachari (R2)

O R D E R

The present Criminal Original Petition is filed to call for and quash C.C.No.40 of 2009 pending on the file of the Judicial Magistrate No. I, Dharmapuri District.



2. The 2nd respondent/ complainant, filed a complaint against the petitioners alleging that, the de facto complainant herein appointed the 1st petitioner/A1, as a Maistry to construct a house and agreed to pay a sum of Rs.33,000/- per sq. ft. and totally a sum of Rs.19,68,280/- has to be paid. The de facto complainant stated that, after receiving a sum of Rs.16,50,000/-, the 1st petitioner did not complete the construction work, thereafter, the de facto complainant engaged another person and spent Rs.1,10,000/- and completed the construction work. In such circumstances, the petitioner/A1, has to pay a sum of Rs.4,28,280/-, to the de facto complainant. When the de facto complainant demanded the money the petitioner refused to pay the same. Subsequently on 08.07.2007, at about 10.00 a.m. all the accused who were employed in the construction work by A1, went the house of the de facto complainant and demanded money and criminally intimidated him. Hence, he filed a complaint before the respondent police. Based on that, an FIR has been registered for an offence under Section 147, 448, 506 (i) of the Indian Penal Code (IPC). After investigation a final report has been filed. Learned Judicial Magistrate has taken cognizance of the matter and issued summons. To quash that criminal complaint the present quash petition has been filed.

3. Mr.C.Umashankar, learned counsel for the petitioner would submit that, admittedly, there is a civil dispute between the parties. The 1st petitioner was engaged to construct a house and he has also completed the construction. Only the de facto complainant has to pay some amount to the 1st petitioner, when he demanded the same, a false complaint has been filed against the 1st petitioner/A1 and also other accused who are all construction labourers working under the 1st petitioner. According to him, a perusal of the complaint as well as the statement of the witnesses do not make out any offence against the petitioners under Section 147, 448 and 506 (i) of IPC. According to the learned counsel for the petitioners, the de facto complainant is a practicing advocate and was a president of the local Bar Association and only at his instance a false complaint has been registered against the petitioners, who are all poor construction workers.

4. Per contra, learned counsel for the de facto complainant would submit that after agreeing to complete the construction work and after receiving nearly Rs.20,00,000/- from the de facto complainant, A1 failed to complete the construction work, and thereafter the petitioner completed the construction work spending more than four lakhs. He was also preparing to go to the Civil Court to recover the money. At that juncture, A1 along with rowdy elements trespassed into the complainant's house and criminally intimidated him. Hence, the complaint has been filed.



The respondent police after investigation recorded the statement of witnesses and filed a final report. The learned Judicial Magistrate after applying his mind taken cognizance of the offence. Learned counsel would submit that the material available on record clearly made out offence under Sections 147, 448 and 506 (i) of the IPC and absolutely there is no reason to quash the proceedings.

5. I have considered the rival submissions and perused the records available on record.

6. The petitioners before this Court are construction labourers. According to the de facto complainant, the de facto complainant entered into an agreement with A1, for construction of a house, and there was a money dispute between the parties. According to the de facto complainant, after receiving nearly 20 lakhs, A1 failed to complete the construction work and he has spent more than one lakh rupees, to complete the construction, more than four lakhs was due from A1. However, demanding money from him, A1 along with the other accused trespassed his house and criminally intimidated him.

7. During investigation, the police recorded the statement of the de facto complainant, a junior advocate and clerk working under him. From their statement it could be seen that, on the date of the occurrence, all petitioners went to the house of the de facto complainant, demanding their wages, stating that they have only completed the construction, the de facto complainant, failed to settle their wages.

8. It is only a money dispute among the parties and all the petitioners went to the house of the de facto complainant demanding their wages. At any rate it cannot be held as unlawful assembly trespass, attracting an offence under Sections 147 and 448 IPC. As far as offence under Section 506 IPC is concerned, the petitioners only demanded the wages from the de facto complainant and it cannot be turned criminal intimidation inviting offence under Section 506 of the IPC.

9. In result, this Court is of the view that, no prima facie case is made out against the petitioners for the aforesaid offence, and allowing the accused to stand for trial would amount to abuse of process of the entire criminal proceedings and liable to be set aside.



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10. In result, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, No.1,
Dharmapuri District.
2. Do-Through,
The Chief Judicial Magistrate,
Dharmapuri.
3. The Inspector of Police,
Dharmapuri B1 Town Police Station,
Dharmapuri.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.61404

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GPL (CO)
SU (17/12/2021)