

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P No.13417 of 2016
and Crl MP No.6894 & 6895 of 2016

1. P.Soundararajan
2. V.P.Sheeba

Petitioners /Accused

vs.

1. State by Sub Inspector of Police,
M-1,Madhavaram Police Station,
Madhavaram, Chennai

1st Respondent/Complainant

2. V.Ravanaiah

..2nd respondent /
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.427 of 2014 on the file of the learned Judicial Magistrate, Thiruvottiyur.

For Petitioner : Mr.V.V.Sairam

For Respondent : Mr.E.Rajthilak
learned counsel for Government
(Crl Side) for R1
Mr.K.Kannan for R2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C No.427 of 2014 on the file of Judicial Magistrate, Thiruvottiur.

2. The case of the prosecution is that the petitioners are the owner of the premises, which has been let out for lease to the defacto complainant. They also executed a Lease Deed dated 24.01.2010. Whiles, on 03.12.2010 at about 1.30 pm, the petitioner and his wife/2nd accused herein along with some rowdy elements came to the house of the defacto complainant and also threatened him to vacate the said house. Therefore, the defacto complainant gave a complaint before the respondent police, based on which, FIR came to be registered in Crime No.721 of 2010 for the offences punishable under Section 147, 341, 448, 352, 452 and 506(2) IPC. After registration of the case, the respondent police produced the accused persons before the learned Judicial Magistrate, Thiruvottiur on 04.12.2010 for remand and the learned Magistrate vide order dated 04.12.2020 refused to remand the accused /petitioners by citing that the matter is purely of civil in nature. Thereafter, the defacto complainant filed a suit in O.S.No.233 of 2010 before the District Munsif Court, Thiruvottiur

seeking for the relief of permanent injunction restraining the petitioner/accused herein from interfering with the peaceful possession and enjoyment of the property. While so, the respondent police after recording the statements from the witnesses under Section 161 Cr.PC and preparing observation mahazar, altered the offences to 341, 448, 352, 452 and 506(ii) IPC and filed a charge sheet before the learned Judicial Magistrate, Thiruvottiyur. The same was taken on file in C.C.No.427 of 2014. Challenging the said proceedings, the petitioners filed this Criminal Original Petition seeking to quash the same.

3. The learned counsel for the petitioners submitted that the case is purely civil in nature which has given a criminal colour. The learned counsel further submitted that the suit filed by the defacto complainant before the District Munsif Court, Thiruvottiyur seeking for permanent injunction, has been dismissed for default due to non appearance of the defacto complainant/plaintiff before the Court below. The learned counsel further submitted that though the case was registered in the year 2010, the final report has been filed in the year 2014, which is beyond the period of limitation.

4. Heard Mr.E.Rajthilak learned counsel for Government (Crl Side) for 1st respondent and the learned counsel appearing for 2nd respondent.

5. A perusal of the materials available on record shows that as early as on 04.12.2010, when the petitioners / accused were produced before the learned Judicial Magistrate for remand, after citing the matter to be purely of civil in nature, the Magistrate refused to remand. Such being the case, the respondent police have conducted further investigation and have filed the charge sheet with the altered offence, which has been taken cognizance of by the learned Judicial Magistrate, Thiruvottiur. It has to be pointed out that pursuant to the rejection of remand, the defacto complainant had also filed O.S.No.233 of 2010 before the learned District Munsif Court, Thiruvottiur seeking for permanent injunction, which was dismissed for default due to non-appearance of Complainant before the Court below and further, he had not taken any further steps to prosecute the case.

6. In view of the above, this Court is of the considered view that the dispute between the parties is purely civil in nature as observed even at the earliest point of time and entertaining the charge sheet at a later point of time in the year 2014 for a crime, which was registered as early as in the year 2012 is impermissible and unsustainable and further, the defacto complainant had not taken any further steps to prosecute the suit and therefore, the C.C.No.427 of 2014 on the file of the learned Judicial Magistrate, Thiruvottiyur, is deserves to be quashed and accordingly, the same stands quashed. This Criminal original petition is allowed. Consequently connected miscellaneous petition is also closed.

05.07.2021

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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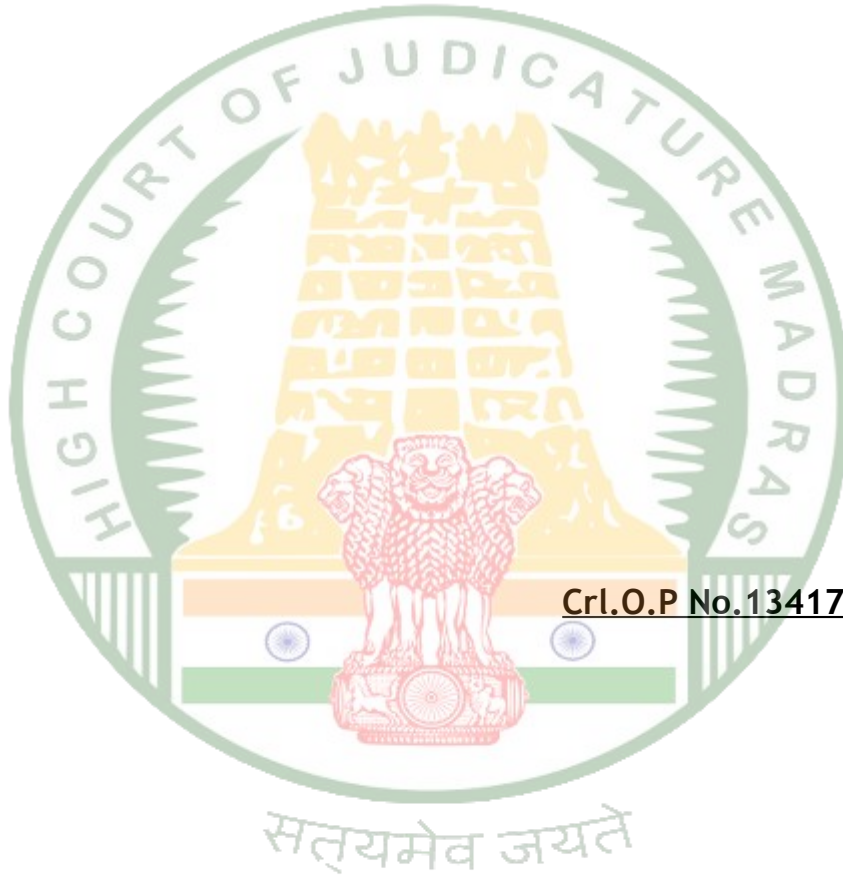
To

1. The Judicial Magistrate, Thiruvottiyur

2. The District Munsif Court, Thiruvottiyur

3. The Public Prosecutor, High Court, Madras

V.BHAVANI SUBBAROYAN



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