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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.09.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.OP.No.23338/2015 & MP.No.1/2015

[Video Conferencing]

1.Rajasekaran

2.Nirmala

... Petitioner/Accused 1 and 2

Versus

1. The State by  
The Inspector of Police  
K1 Sembium Police Station  
Chennai 600 011.

2. Mr.R.Jayaprakash

... Respondents/  
Complainant

Prayer : - Criminal Original Petition filed u/s.482 of Cr.P.C., to call for the records in CC.No.1886/2015 from the file of the learned V Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioners : Mr.K.Balaji

For R1 : Mr.E.Raj Thilak  
Additional Public Prosecutor

For R2 : No appearance

ORDER

- (1) Though notice had been directed to the 2<sup>nd</sup> respondent and the learned counsel had entered appearance, there is no representation on behalf of the 2<sup>nd</sup> respondent.
- (2) Heard Mr.K.Balaji, learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the 1<sup>st</sup> respondent.
- (3) On 26.11.2014, the 2<sup>nd</sup> respondent herein/defacto complainant had given a complaint to the 1<sup>st</sup> respondent as against the



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petitioners herein who had been arrayed as A1 and A2 and on the basis of the said complaint, a FIR in Crime No.2797/2014 had been registered u/s.448, 427 & 506[i] IPC. In the complaint, it had been stated that the petitioners herein had trespassed into the house of the 2<sup>nd</sup> respondent/defacto complainant and had damaged the said house. The specific case of the 2<sup>nd</sup> respondent herein/defacto complainant was that he was in possession of the property at No.4, Sadaiyappa Doss Street, Perambur-600 011.

- (4) Learned counsel for the petitioners however drew the attention of this Court to an order of a competent Court, viz., the XV Additional City Civil Court, Chennai, in CMA No.87/2013 which appeal had been preferred by the petitioners herein against IA.No.14357/2012, which Interlocutory Application had been filed in OS.No.6058/2012, which suit had been filed by the 2<sup>nd</sup> respondent herein/defacto complainant. During the course of discussions in the said order, the learned Additional Judge, had very clearly held that the petitioners are in possession and enjoyment of the said property. After this order came to be delivered, the complaint was lodged before the 1<sup>st</sup> respondent police claiming that the 2<sup>nd</sup> respondent herein/defacto complainant was in possession and that the house was damaged by the petitioners herein.
- (5) The learned counsel for the petitioners very specifically stated that he tried to give copies of this particular order to the 1<sup>st</sup> respondent police, but he was not encouraged to give the same and they were also not considered and the Final Report had been filed.
- (6) I hope that this is a fit case where further directions can be given to once again re-examine the case and the petitioners are given liberty to produce relevant documents before the Investigating Officer/the 1<sup>st</sup> respondent herein who may take that on record after issuing notice u/s.41-A Cr.P.C., and if required, file a further Report before the Trial Court.
- (7) To that extent, the Final Report now filed, can be kept in abeyance and no further proceedings can be initiated on the said Final Report. However, on filing of further Report after further investigation u/s.173[8] Cr.P.C., the Trial Court, viz., the V Metropolitan Magistrate Court, Egmore, Chennai, may proceed further with CC.No.1886/2015.
- (8) Time for filing further Report is granted till 31.01.2022. Let further investigation be done and Report to be



forwarded to the Court of V Metropolitan Magistrate, Egmore, Chennai, who may take appropriate decision on receipt of such further Report.

(9) With the above directions, the present Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

1. The V Metropolitan Magistrate  
Egmore, Chennai.
2. The Inspector of Police  
K1 Sembium Police Station  
Chennai 600 011.
3. The Public Prosecutor (CRL.SIDE)  
High Court , Madras.

+1cc to Mr.K.Balaji, Advocate, S.R.No.50386

Crl.OP.No.23338/2015

SRA (CO)  
CT/12/10/2021