

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.1748 of 2018
and Crl.M.P.Nos.673 & 674 of 2018

1. Kandhasamy
2. Sivamani

...Petitioners

Vs.

1. State represented by
Sub Inspector of Police,
B-8, Pullarambakkam Police Station,
Thiruvallur District.

2. Anandan

...Respondents

Prayer: The Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.245 of 2017 pending on the file of Judicial Magistrate No.1, Thiruvallur, Thiruvallur District and quash the charge sheet.

For Petitioners : Mr.R.Balakrishnan
For R1 : Mr.T.Shanmugarajeswaran
Government Advocate (Crl.Side)
For R2 : Mr.K.Balaji

O R D E R

This Criminal Original Petition has been filed seeking to call for the records in C.C.No.245 of 2017 pending on the file of Judicial Magistrate No.1, Thiruvallur, Thiruvallur District and to quash the charge sheet.

2. The case of the petitioners is that the 1st petitioner had purchased the vacant land in old Survey No.442/B2, New Survey No.705/16 at Pullarampakkam Village, Thiruvallur District (totally 1122 Sq.ft on 31.03.2016). After purchasing the property, the petitioners and their deceased brother namely Sundaram tried to renovate the above property. At that point of time, the second respondent/defacto complainant, along with his relatives is stated to have attacked the petitioners and his deceased brother namely Sundaram. Subsequently, the said Sundaram died. Earlier, the petitioners and their brother are

alleged to have attacked the second respondent/defacto complainant and his relatives and caused injuries and thereby, the second respondent/defacto complainant had filed a complaint before the law enforcing agency against the petitioners and their deceased brother namely Sundaram for the offence under Sections 447, 294(b), 506(i) of IPC and a false case was foisted against the petitioners and initially the 1st petitioner's name was included in the FIR and deceased brother name i.e., Sundaram is also stated to have been added as accused in the Charge sheet.

3. The learned counsel appearing for the petitioners submit that in complaint, the second respondent/defacto complainant implicated only the 1st petitioner and the other person name is not found in the FIR. After investigation, the names of the other persons have also been included, which clearly shows that the inclusion of the names of other persons is an afterthought. Hence, he prays for allowing this petition.

4. Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Crl.Side) appearing for the 1st respondent and the learned counsel appearing for the second respondent/defacto complainant.

5. The facts are not in dispute. The second respondent/defacto complainant made a complaint on 25.06.2017 alleging that the 1st petitioner had entered into the lands of the defacto complainant and threatened him with dire consequences and damaged the property. It is borne out by record that civil disputes are pending in O.S.No.36 of 2016 between the parties and suit.

6. Be that as it may. Even a cursory perusal of the complaint reveals that allegation has been made only against the first petitioner and thereafter the name of the deceased has been included while filing the charge sheet. The above act clearly shows that the inclusion of the name of the other person, since deceased, was after investigation of the case by the law enforcing agency. It is well settled proposition of law that the Court, while dealing with a petition under 482 Cr.PC shall not go into the issue with regard to the allegations made and only a prima facie satisfaction has to be arrived at as to whether the complaint is bona fide or not.

7. Even as per the case of the prosecution, as admitted by the petitioners, the name of the 1st petitioner has been shown in the complaint and the name of the deceased has been included after conclusion of investigation and when charge sheet was laid. However, the said individual has since deceased. Therefore, the allegation as against the 1st petitioner has been

borne out by record, as is reflected in the complaint and, therefore, the inclusion of the name of the deceased person in the charge sheet would in no way be taken in aid by the petitioners to have the charge dismissed against them. The defacto complainant had made the complaint against the 1st petitioner and that being the case, after investigation, charge sheet having been laid, the proper course open to the petitioners is only to face trial and in the absence bona fide material in favour of the petitioners, this Court is not inclined to exercise its inherent powers u/s 482 Cr.P.C. to quash the case.

8. For the reasons aforesaid, this petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

msrm
To

- 1.The Judicial Magistrate No.1,
Thiruvallur.
2. The Sub Inspector of Police,
B-8, Pullarambakkam Police Station,
Thiruvallur District.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1 CC to Mr.R. Balakrishnan, Advocate sr 22771.

Cr1.O.P.No.1748 of 2018

RP(CO)
SP(01/07/2021)

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