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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.8278 of 2017
& Crl.M.P.No.5946 of 2017

(Through Video Conference)

Sagadevan . . . Petitioner / A-2

Vs.,

1. The State rep. by its
The Inspector of Police,
F-2, Auroville,
Villupuram District. . . . R-1/ Complainant
2. Aravindhan . . . R-2/ De facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records relating to Crime No.29 of 2016 on the file of Inspector of Police, F-2, Auroville, Villupuram, District and quash the same.

For Petitioner : Mr.G.Mahammed Aseef

For R-1 : Mr.S.Vinoth Kumar,
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the F.I.R. registered in Crime No.29 of 2016, dated 15.01.2016 on the file of Inspector of Police, F-2, Auroville, Villupuram, District for the offenses under Sections 448, 294(b), 352, 506 (ii) of the Indian Penal Code.

2. The main contention of the learned counsel for the petitioner Mr.G.Mahammed Aseef is that the F.I.R. is a result of motivation that arose from the civil suit which is pending between the parties, claiming Right for Adoption as 'son'. The first accused has already filed a suit in O.S.No.156 of 2013, claiming right over the property, left by one Saraswathi Devi Ammal, whereas one Aravindan, the de facto complainant herein,



has also claimed to be the adopted son, has falsely lodged a complaint on 06.01.2016 for the alleged occurrence on 14.11.2015. Hence, the contention of the learned counsel for the petitioner is that the entire allegation in the F.I.R. is an after thought or motivated one and hence, he prays to quash the F.I.R. relating to Crime No.29 of 2016 on the file of Inspector of Police, F-2, Auroville, Villupuram, District.

3. The learned Government Advocate (Crl.side) submits that the complaint has been lodged belatedly on the allegation of trespassing threat and it is also submitted that admittedly, there is a civil dispute between the parties.

4. Heard the learned counsel for both sides and I perused the entire F.I.R. and other materials placed before this Court.

5. The crux of the allegation is that the de facto complainant is claimed to be the adopted son of the deceased Saraswathi Devi Ammal and she left a Will executed in his favour on 04.07.1985. Thereafter, the de facto complainant was residing at Sweden and he came to India only in the year 2015. On 14.11.2015, when the de facto complainant went to his property, which is the subject matter of the Will, he found that the accused has already occupied the same. When the same was questioned, he was threatened and the said complaint was given on 06.01.2016. It is to be noted that as admitted by both sides, A-1 claims right over the property, particularly claiming as the adopted son of the deceased Saraswathi Devi Ammal, whereas the de facto complainant has also claimed as the adopted son of Saraswathi Devi Ammal. The allegation in the F.I.R. indicated that the entire dispute is related to the property of Saraswathi Devi Ammal and both the de facto complainant and the petitioner herein, claim to be the adopted sons of the deceased Saraswathi Devi Ammal.

6. Be that as it may, the allegation in the F.I.R. shows as if the de facto complainant was threatened on 14.11.2015. However, the complaint was given in the Police Station only on 06.01.2016. The delay in lodging the complaint from the date of threatening of de facto complainant itself indicates that it is nothing but a result of the civil dispute and for the claim over the right of property of the deceased Saraswathi Devi Ammal and the entire allegation is taken as evidence and this Court is of the view that same would not constitute an offence and continuation of prosecution is nothing but abuse of process of law.



7. With the above observations, this Criminal Original Petition is Allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sts/gd

To

1. The Inspector of Police,
F-2, Auroville,
Villupuram District.
2. The Public Prosecutor,
High Court, Madras - 104.

Crl.O.P.No.8278 of 2017

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