



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.8387 of 2017

and

Crl.M.P.Nos.6004 & 6005 of 2017

1. Venkatesh
2. Dineshkumar
3. Mani

...Petitioners

Vs

1. State Rep. by the Inspector of Police,
District Crime Branch,
Salem District.
[Crime No.19 of 2012, Salem]

2. Mr.B.Jagadeesan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings in S.C.No.250 of 2020 on the file of the Principal District and Sessions Court, Salem and quash the same.

[Amended as per Order in Crl.M.P.No.893 of 2020 in Crl.O.P.No.8387 of 2017, dated 27.01.2020 & Amended as per Order in Crl.M.P.No.10406 of 2021 in Crl.O.P.No.8387 of 2017, dated 20.10.2021]

For petitioners: Mr.D.Shivakumaran

For Respondents: R1 - Mr.S.Vinoth Kumar,
Government Advocate [Criminal Side]

R2 - Mr.A.Ameen

O R D E R

This petition has been filed to quash the charge sheet filed in S.C.No.250 of 2020 on the file of the learned Principal District and Sessions Judge, Salem for the offences under Sections 147 and 448 of I.P.C and Section 3[1] of Tamil Nadu Property [Prevention of Damages and Loss] Act, 1992.



2. The learned counsel appearing for the petitioners mainly contended that this is the third complaint given by the defacto complainant and the previous complaints lodged under similar allegations have been closed as 'mistake of facts' and even RCS has been served on the defacto complainant in the earlier occasions. Whereas the present third complaint has been sent to the Special Cell of the Chief Minister incorporating the date of occurrence. But in the previous complaints, the date of occurrence has not been given in the First Information Reports. Therefore, having executed the documents and handed over the possession, the allegation that the accused committed damages in the property is highly improbable. Therefore, the prosecution has to be quashed.

3. At the outset, this Court is unable to accept the contention of the learned counsel for the petitioner. Whereas the statements available on record would prove the offences or not has to be seen only by the trial Court. When the final report has already been filed and the same has been taken cognizance, the allegations in the final report, and the veracity of the witnesses has to be decided only at the time of trial by the trial Court. Hence, this Court is not inclined to quash the proceedings. At this stage, the learned counsel for the petitioners sought indulgence of the petitioners to dispense with the personal appearance of the petitioners.

4. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all his legal defence before the trial Court. In view of the submissions of the learned counsel for the petitioners, the personal appearance of the petitioners is dispensed with except for receiving copies, for answering the charges, for questioning under section 313 Cr.P.C. and on the dates fixed by the trial Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

1. The Principal District and Sessions Judge,
Salem.



2. The Inspector of Police,
District Crime Branch,
Salem District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.D.Shivakumaran, Advocate, S.R.No.61236

+1cc to M/s.A.Ameen, Advocate, S.R.No.60745

Crl.O.P.No.8387 of 2017
and
Crl.M.P.Nos.6004 & 6005 of 2017

KSM(CO)
RGA(08/12/2021)