



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 3734 of 2017
and CrI.M.P.Nos.2762, 2763 and 2425 of 2017

1.G.Murali
2.B.Babu Reddyar
3.N.Balu @ Balasubramania ReddyarPetitioners

Versus

Mr.Radhakrishnan . . . Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call records in C.C.No.3 of 2017 on the file of 1st Additional District Munsif cum Judicial Magistrate, Ulundurpet and quash the same.

For Petitioners : Mr.T.Arockia Dass

For respondent : M/s.R.Raji

ORDER

This Criminal Original Petition has been filed to call records in C.C.No.3 of 2017 on the file of 1st Additional District Munsif cum Judicial Magistrate, Ulundurpet and quash the same.

2.Learned counsel for the petitioner submitted that the date of alleged incident was 13.09.2014. The date of complaint given to the Police was on 27.11.2015, i.e., after one year from the date of alleged incident. Thereafter, private complaint was filed on 29.08.2016, i.e., after two years from the date of incident. These facts clearly prove the attitude of the complainant.

(ii). The entire complaint filed against them is due to the civil dispute on the property, admittedly belonging to the petitioner herein. In respect of the same, civil suit was also filed between the petitioners and his brothers, in which, the petitioner's father obtained interim order in his favour. To take revenge, the respondent has given the present false complaint before the Inspector of Police, Ulundurpet Police as



if his father has committed criminal trespass and theft. Based on the false complaint, a case in Crime No.532/2015 was registered against his father under Sections 447,379(NP) and 506 (i) of I.P.C. Since it was purely civil in nature, his father filed quash petition before this Court to quash the FIR and the respondent Police represented that the case was already closed as mistake of fact. In this regard, the petition was disposed of on 01.02.2016 on the basis of the respondent's representation. Based on this similar false complaint, the defacto complainant again filed this private complaint against the petitioners as if they have committed so called offenses, which is nothing but abuse of process of law.

3. At the outset, I am of the view that the learned Magistrate has not passed any order nor taken any cognizance on the matter. Admittedly, there are suits pending between the parties and the defacto complainant has also admitted the ownership of the petitioner. In such view of the matter, whether the allegations pressed into service in the complaint has been made out or not, has to be seen with the background of two civil suits between the parties.

4. In such view of the matter, the very allegation in the complaint itself is bereft of details about the nature of trespassing damages. Admittedly, the petitioner's father has obtained interim order by way of interim injunction in the suit in C.S.No.94 of 2014 and interim order was operating in favour of the petitioner till 18.09.2014. The very complaint itself clearly indicate that interim injunction was not extended. Further, the private complaint indicate that the petitioner who is the brother of the defacto complainant have damaged the inscription in the property except that no allegation of causing damages is made. Admittedly, the property belongs to the petitioner and injunction was operative till 18.09.2014 and previous complaint given to the Police was also closed. In such view of the matter, continuing the private complaint for alleged trespass and damage of the property is nothing but abuse of process of law. Therefore, the parties shall establish their rights before the Civil Court. In such view of the matter, the civil dispute cannot be converted as criminal offence.

5. Accordingly, the complaint is quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



msv

To

The 1st Additional District
Munsif Cum Judicial Magistrate,
Ulundurpet.

+1cc to M/s.T.Arockia Dass, Advocate, S.R.No.62687

Cr1. O.P. No. 3734 of 2017
and Cr1.M.P.Nos.2762, 2763 and 2425 of 2017

PL(CO)
SB(30/12/2021)