



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved On : 14.09.2020

Pronounced On : 23.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.4866 of 2017

and

CRL MP.No.3632 & 3633 of 2017

1.K.Sureshkumar @ Parapatti Sureshkumar
2.P.Goushiga Bhoopathy
3.M.A.D.Krishnasamy
4.Ulaganambi
5.Gym Ramu
6.Kool Mahendran
7.Sidhanandham
8.Pettikadai Kanagaraj
9.Karikadai Perumal @ Perumal
10.S.Lakshmanan
11.V.Balagurumurthi ... Petitioners/A2 to A9 & 11 to 13

Vs.

1.The State
Rep.by Inspector of Police,
Central Crime Branch,
Salem. ... 1st Respondent / Complainant
2.T.Ganesan ... 2nd Respondent /Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in Crime No.32 of 2011, on the file of Inspector of Police, Central Crime Branch, Salem City, the 1st respondent herein and quash the same.

For Petitioners : Mr.Ar.L.Sundaresan for
Mr.Ar.L.Ganthimathi

For R1 : Mr.C.Iyyapparaj
Addl.Public Prosecutor

For R2 : Mr.N.Vijayabaskar



O R D E R

This Criminal Original Petition has been filed praying to quash the proceedings in Crime No.32 of 2011, on the file of Inspector of Police, Central Crime Branch, Salem City, the 1st respondent herein.

2.The brief facts, in a nutshell, are as follows:-

On 15.07.2011, the 2nd respondent lodged a complaint before the 1st respondent alleging that he was residing at Nagaramalai Adivaram and that earlier, 23 families were living in Angammal Colony, near Salem Bus Stand. On 20.01.2008, at the instigation of a former Minister, the petitioners along with others committed criminal trespass into the aforesaid property. The Personal Assistant to the former Minister stated that the said property had already been purchased by them and the 23 households should be vacated immediately. While so, on 06.02.2008, the private individual accused caused damage to the houses and chased away the occupants. Based on the complaint given by the 2nd respondent, a case in Crime No.32 of 2011 was registered on 15.07.2011, for the offence punishable under Sections 147, 148, 447, 109, 386, 467, 506(ii) IPC., and Section 3(1) of the Tamil Nadu Public Properties Damages and Loss Act, 1994.

3.Mr.Ar.L.Sundaresan, the learned senior counsel appearing for the petitioners would submit that the alleged occurrence is said to have taken place on 20.01.2008, but the complaint was lodged before the 1st respondent Police only on 15.07.2011, after a delay of 3-1/2 years, after the alleged occurrence, which obviously shows that the complaint is per se false, baseless and devoid of any merits. Now, the defacto complainant filed an affidavit, dated 15th February, 2017, stating that he is not interested in pursuing the criminal complaint any further. As such, keeping the prosecution pending, will be of no useful purpose. Under such circumstances, the petitioners ought not to be compelled to have the stigma of facing a criminal case. Therefore, the impugned criminal proceedings in Crime No.32 of 2011, on the file of Inspector of Police, Central Crime Branch, Salem City, the 1st respondent herein, deserve to be quashed.

4.In order to substantiate his arguments, the learned counsel for the petitioners relied upon the case of "Mohammed Ibrahim and others Versus State of Bihar and Another reported in (2009) 8 Supreme Court Cases 751."

5.Mr.N.Vijayabaskar, the learned counsel appearing for the 2nd respondent-defacto complainant would submit that the 2nd respondent filed an affidavit, dated 15th February, 2017, stating



that he is not interested in pursuing the criminal complaint any further. The defacto complainant appeared and confirmed the same. Hence, the learned counsel for the 2nd respondent has no objection in allowing this petition for quash. The learned counsel for the 2nd respondent further submitted that for the past three years, the 2nd respondent has been appearing before the 1st respondent and informing about the compromise and also given a withdrawal letter to the 1st respondent. Even on 27.06.2020, referring the earlier representation, he had given a withdrawal letter. He further submitted till yesterday, the charge sheet has not been filed before the trial Court. He further submitted that when he made enquiries with regard to filing of charge sheet, he was informed that no charge sheet was filed.

6.The learned Additional Public Prosecutor appearing for the State would submit that the accused should be made to face trial and compounding of the offence at this stage may not be proper. He further submitted that in this case, as early as in the year 2016, final report has been made ready, more specifically on 20.01.2016 filed before the Special Court for Land Grabbing cases, Salem. Due to the interim stay of the Hon'ble Apex Court, the same has not been taken on file. Hence, he prayed for dismissal of the above petition.

7.The learned Additional Public Prosecutor relied upon the cases of "Parbatbhai Aahir Alias Parbatbhai Bhimsinhbhai karmur and others Versus State of Gujarat and another reported in (2017) 9 SCC 641 and The State of Madhya Pradesh Versus Laxmi Narayan and others in Criminal Appeal No.349 of 2019" and submitted that the offence involved in this case are not private in nature and have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences. Further, the petitioners herein had criminal antecedents.

8.I have heard the learned counsels appearing on either side and perused the materials available on record.

9.Both the petitioners and the defacto complainant appeared and filed the compromise affidavit, withdrawal letter dated 26.06.2020 before the 1st respondent with proof.

10.It is seen that the 2nd respondent-defacto complainant filed an affidavit, dated 15th February, 2017, stating that he is not interested in pursuing the criminal complaint any further as they have settled their disputes amicably among themselves.



11. At this juncture, it is relevant to refer the Judgment of the Hon'ble Apex Court in Gian Singh Vs. State of Punjab reported in (2012 (10) SCC 303), wherein, it has been held that even in cases involving non-compoundable offences, the High Court can act under Section 482 of Cr.P.C., and quash the proceedings if the parties have really settled the whole dispute, which does not involve any public interest or public issue, and continuation of the prosecution will not serve any purpose.

12. Considering the facts and circumstances of the case and the principle enunciated by the Hon'ble Apex Court in the Judgment reported in (2012 (10) SCC 303), (cited supra), this Court is of the view that no useful purpose will be served in keeping the proceedings in Crime No.32 of 2011 pending, on the file of Inspector of Police, Central Crime Branch, Salem City, the 1st respondent herein, even though, the offences involved are not compoundable in nature. Coupled with the fact that this Court in Crl.O.P.Nos.3751 & 3756 of 2019, dated 11.03.2019 had quashed the proceedings in S.C.No.465 of 2018 for an occurrence dated 06.10.2008. In yet another proceedings, the trial Court by judgment dated 29.10.2020 had rendered a judgment of acquittal in S.C.No.360 of 2014 for an occurrence said to have taken place on 02.06.2012. All these cases pertain to the dispute and the offence involving Anjammal Colony. On the facts and merits of the case, it is found that there is no serious impact on the society due to the settlement and compromise entered between the petitioners and the 2nd respondent. Further, the petitioners have no previous bad antecedents.

13. In the result, this Criminal Original Petition stands allowed and the investigation in Crime No.32 of 2011, pending on the file of the 1st respondent and any other sequel or proceedings in furtherance to the Crime No.32 of 2011 are quashed. The affidavit filed by the defacto complainant, dated 15th February, 2017, shall form part and parcel of this order. Consequently, the connected miscellaneous petition is closed.

*Xerox copy of the Affidavit dated 15.02.2017 is enclosed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

MPK



To

1.The Inspector of Police,
Central Crime Branch,
Salem.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.4866 of 2017

PCH(CO)
CB(23/07/2021)