



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.12213 of 2017 and
Crl.M.P.Nos.7984 & 7985 of 2017

1.K.Selvakumaran

2.S.Rajalakshmi

...Petitioners/Respondents

Vs

1.The State of Tamil Nadu rep. by
The Sub-Inspector of Police,
West Police Station, Villupuram.

...Respondent/Complainant

2.D.Jayakumar

...Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the C.C.No.17 of 2013 on the file of the learned Judicial Magistrate No.I, Villupuram to quash the same.

For Petitioners : Mr.L.Chandra Kumar

For Respondents : R1 - Mr.P.Govindarajan,
Assistant Public Prosecutor
R2 - Mr.M.Manohar

O R D E R

This petition has been filed to quash the charge sheet in C.C.No.17 of 2013 on the file of the learned Judicial Magistrate No.I, Villupuram against the petitioners for the offences punishable under Sections 148, 294(b), 352, 506(ii) of I.P.C.

2. The crux of the allegation in the complaint indicate that there was a dispute in the joint family property between the petitioners and other family members and a suit was also filed in this regard. However, the mother of the defacto complainant had sold the property to the present accused in the



year 2010. Thereafter, the accused in order to enter the property threatened the defacto complainant and abused him as the police filed a negative charge sheet. They sent various complaints to the higher officials including High Court. Thereafter, filed a protest petition.

3. Based on the same, the private complaint is taken on file. The learned Counsel for the petitioner submitted that this private complaint is nothing but abuse of process of law and all the civil disputes have been given a criminal colour and the entire allegation has been proceeded only in order to defeat the rights of the petitioner over the purchase of the property from the mother of the defacto complainant. It is further submitted that the defacto complainant had already filed a suit in O.S.No.119 of 2010 for permanent injunction against the petitioners which was dismissed on 01.10.2021 after full trial by the learned Additional District Judge. Suit filed for declaration has also been dismissed. Previously, police had filed negative report and the private complaint has been taken on file only on the basis of the protest petition. Hence, submitted that the entire private complaint is nothing but abuse of process of law.

4. The learned Counsel for the respondents has not disputed the dismissal of the suits. However, it is submitted that the accused trespassed into the property and abused the defacto complainant. Thereby, opposed for quashing this petition.

5. Heard both the counsels and perused the material.

6. The entire private complaint filed before the learned Magistrate indicate that the primary grievance of the petitioner is with regard to the dispute over the joint family property held by the members and it is also not disputed by the defacto complainant that certain portion of the property has already been sold to the present petitioners, by the mother of the defacto complainant in the year 2010 and possession is also appears to be given.

7. Hence, the allegation of the defacto complainant is mainly with regard to the grievance over the property sold by the mother of the defacto complainant. The entire allegation as to threat is also vague without any materials. The police have also investigated the matter and closed the case as a mistake of fact. The order taking cognizance of the learned Magistrate also indicate that he has not applied his mind. In fact, he has recorded the fact that the petitioner not given the name of the petitioner K.Selavakumaran and others and others have not been named. Only in the application filed in the form of protest petition, others have been roped in the criminal case. The



entire allegation clearly indicates that this complaint is motivated and continuation of the same is nothing but an abuse of process of law and the same is quashed herein.

8. Accordingly, this Criminal Original Petition is allowed and the charge sheet in C.C.No.17 of 2013 on the file of the learned Judicial Magistrate No.I, Villupuram against the petitioners for the offences punishable under Sections 148, 294 (b), 352, 506(ii) of I.P.C. is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ggs / kbs

To

1.The Judicial Magistrate No.I,
Villupuram.

2.The Sub-Inspector of Police,
West Police Station,
Villupuram.

3.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.M.Manohar, Advocate SR. No.67864

+1cc to Mr.L.Chandra Kumar, Advocate SR. No.67679

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MG (CO)

PR (06/01/2022)