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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 25188 of 2017

and

Crl.M.P.Nos.14504 and 14505 of 2017

1.G.Ramachandran

2.D.Moorthy

. . . Petitioners

Versus

T.Rajendan

. . . Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and complaint pending in C.C.No.259 of 2017, on the file of the Judicial Magistrate Court No. 2, Chidambaram and quash the same.

For Petitioners : Mr.J.Antony Jesus

For Respondent : Mr.K.V.Sridharan

ORDER

This Criminal Original Petition has been filed to quash the Private Complaint in C.C.No.259 of 2017, on the file of the Judicial Magistrate Court No. 2, Chidambaram.

2.The main crux of the allegations made in the private complaint is that the accused along with his henchmen, entered into the premises of the Principal of the de facto complainant and damaged the compound wall and when the de facto complainant questioned the same, they caused criminal intimidation against the de facto complainant. Hence, the complaint.



3.The submission of the learned counsel appearing for the petitioners is that the entire case is a result of civil dispute. The learned counsel further submitted that a suit for injunction was filed by the de facto complainant against the accused in respect of the subject property, which has also ended in favour of the accused, wherein, a clear finding has been recorded that the subject property, i.e., the compound wall was situated within the premises of the accused. Therefore, the learned counsel contended that the question of demolition or damaging the wall by the accused does not arise at all. The further contention of the learned counsel is that, on the date of alleged occurrence, A1 was never present at the place of occurrence and he had been deputed to some other place. Hence, the private complaint as against the petitioners has to be quashed.

4.Heard the learned counsel for the petitioners and perused the materials available on record.

5.Precisely, the learned counsel appearing for the petitioners seeks to establish the plea of alibi before this Court. This Court is not a trial Court to appreciate the evidence to give a finding that the plea of alibi is proved before this Court. It is a matter of evidence. The burden is always on the person who seeks to establish the plea of alibi. It is for the petitioner to establish the same before the trial Court. Moreover, as there are allegations in respect of causing damage to property and causing injuries, I am not inclined to quash the complaint at the threshold.

6.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

7.The trial Court is directed to expedite the trial and decide the matter on its own merits, as expeditiously as possible.

8.At this stage, the learned counsel appearing for the petitioners seeks indulgence of this Court to grant an order dispensing with the personal appearance of the petitioners. Accordingly, the personal appearance of the petitioners before the trial Court is dispensed with, except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C.,



passing of judgment, or on any other date as may be required by the trial Court.

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Sd/-  
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

psa/mkn

To

The Judicial Magistrate-2,  
Chidambaram.

Cr1. O.P. No. 25188 of 2017

NRL (CO)  
SU (07/12/2021)