



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No.16830 of 2017

1. M.Yakesh Krishnan,
S/o. P.Marimuthu
2. Marimuthu,
S/o. Parthasarathy

... Petitioners/Accused

Versus

1. The Inspector of Police,
T3 Korattur Police Station,
Chennai.
(Crime No.1155 of 2017)
2. K.Madhesh Kumar,
S/o. Kuppusamy

... Respondents/Investigating Agency/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records and quash the First Information Report filed by the respondent in Crime No.1155 of 2017 pending on the file of the respondent.

For Petitioners	:	Mr.S.R.Rajendra Kumar
For Respondents	:	Mr.S.Vinothkumar Govt. Advocate (Cr1. Side) for R1
		Mr.V.R.Appaswamee for R2

ORDER

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the F.I.R. registered against the petitioners in Crime No.1155 of



2017 for an offence under 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

2. The main contention of the petitioner is that the First Information Report has been filed on the allegation that the petitioners/accused damaged the compound wall. But, in fact, there is no compound wall whatsoever existed in the property prior to the filing of F.I.R. on 24.04.2017. In the month of February 2017, a civil suit was filed by the defacto complainant for injunction in respect of same vacant site, wherein he would have disclosed the existence of compound wall. Thereafter, when the suit is pending, the allegation has been pressed into the existence of compound wall. When the same has been pointed out by the learned counsel appearing for petitioners during the last hearing date i.e. on 11.11.2021, the learned counsel for 2nd respondent sought time to verify the plaint. Today, he has fairly submitted that in the plaint, there was no reference whatsoever made to the existence of compound wall in the vacant site.

3. From the above, it is easily culled out that as there is a civil suit pending between the parties, the allegation of damage to the compound wall is highly improbable and the existence of compound wall itself has not been disclosed in the suit filed by the defacto complainant in the month of February 2017. Therefore, this Court is of the view that continuing the prosecution is nothing, but abuse of process of law and the entire allegation in the F.I.R. would go to show that same is the result of civil dispute and the defacto complainant sought to give a colour of criminality to the civil dispute. Accordingly, this Court exercising its power under Section 482 of CrI.P.C. is inclined to quash the F.I.R. registered in Crime No.1155 of 2017 on the file of 1st respondent police. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

rpp/gd



To

1. The Inspector of Police,
T3 Korattur Police Station,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.S.Rajendrakumar, Advocate, S.R.No.59118

CRL.O.P.No.16830 of 2017

AD(CO)
SU(30/11/2021)