



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.19179 & 19215 of 2017
and
Crl.M.P.Nos.11658 & 11633 of 2017

S.Baskaran ...Petitioner in both petitions
Vs.

1.State represented by
The Inspector of Police,
Chrompet Police Station,
Chrompet, Chennai.

2.M.Gopal ... Respondents/Complainant/Defacto Complainant
in both petitions

Prayer: Criminal Original Petitions in Crl.O.P.Nos.19179 & 19215 of 2017 filed under Section 482 Cr.P.C., to call for the records in Crime Nos.1973 and 1566 of 2016, dated 21.09.2016 and 06.07.2016 respectively, on the file of the 1st respondent police and quash the same.

For Petitioner	:	Mr.K.Balasubramaniam in both petitions
For R1	:	Mr.S.Vinoth Kumar Government Advocate (Crl. Side) in both petitions
For R2	:	Mr.R.Dhanasekar in both petitions

C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash the FIRs in Crime Nos.1973 and 1566 of 2016 on the file of the 1st respondent Police.

2.The main allegations found in the FIRs are that the petitioner/accused had prevented the de facto complainant from



constructing the compound wall in his property and also threatened him not to do so and abused him.

3.It is the contention of the learned counsel for the petitioner that there are three civil suits pending between the parties. One is filed for permanent injunction by the de facto complainant herein in respect of the property in question, in O.S.No.18 of 2016, and thereafter, an amendment was sought to include the prayer for declaration in the year 2018 and again, another suit was filed in the year 2019 in O.S.No.73 of 2019 by the de facto complainant to set aside the document executed in favour of the petitioner. While so, the present FIRs have been lodged giving the civil case, a colour of criminality. Therefore, the learned counsel contended that, absolutely, there is no offence, whatsoever, made out as against the petitioner, and only in order to coerce the petitioner/accused, the present FIRs have been filed. Hence, the learned counsel prayed for quashing the FIRs.

4.The learned counsel for the 2nd respondent/de facto complainant vehemently contended that the accused/petitioner herein, in connivance with the legal heirs of the original vendor, has created the documents and laid a claim over the property, which the de facto complainant has purchased legally. Therefore, it is a clear case of fraud played by the accused on the de facto complainant. Hence, the learned counsel submitted that, at this stage, the FIRs cannot be quashed.

5.Heard the learned counsel on either side and perused the entire materials available on record.

6.The FIRs primarily indicate that there is a civil dispute between the parties in respect of 45 sq.ft. of land. The de facto complainant is said to have purchased the land to an extent of 450 sq.ft. from the original vendor. It appears that the original vendor has settled another 405 sq. ft of land to the petitioner, whereas, again, after the death of the original vendor, her legal heirs are said to have created documents and settled the remaining 45 sq. ft. of land in favour of the accused, which is now in dispute between the accused and the de facto complainant.

7.Normally, this Court will not venture into quashing of FIR at the investigation stage. However, in the present case, on a perusal of the materials, it is apparent that it is purely a case of civil nature and the allegations made in the FIRs are motivated to achieve something indirectly what cannot be achieved directly by way of civil suits. In such cases, this Court can very well interfere with such FIRs, exercising its powers under Section 482 Cr.P.C.



8. The entire allegations in the FIRs, when taken on its face value, clearly indicate that there is genuine civil dispute between the parties over a small extent of land, i.e., about 45 sq.ft. It is alleged that the accused has made criminal intimidation over phone. It is to be noted that the entire allegations made in the FIR, when taken on face value, would not constitute any offence of criminal intimidation. Mere alleged threat over phone cannot be construed to mean that the offence under Section 506(ii) IPC has been made out. Similarly, when there is genuine civil dispute pending between the parties over an extent of land, when the parties show their apprehension to prevent encroachment or putting up of construction over the disputed extent of land, such act can never be construed as wrongful restraint or trespass of property. It is also contended that the accused had abused the de facto complainant. Except raising such a contention, there is no mention in the FIR as to the nature of abusing words, made by the accused. Except general allegations, there are no other specific materials as against the petitioner to make out any offence as against him. It is very clear that both the FIRs are a result of civil dispute. Therefore, this Court is of the view that, continuance of prosecution as against the petitioner is nothing but abuse of process of law, as the parties are also before the Civil Court in respect of the disputed land. It is stated that the de facto complainant has also filed a suit to assail the document in favour of the petitioner. Therefore, it is for the de facto complainant to work out his remedy before the Civil Court in the pending suits, and not by way of setting the criminal machinery in motion.

9. In such view of the matter, this Court is inclined to quash the FIRs as against the petitioner. Accordingly, these Criminal Original Petitions are allowed and both the FIRs in Crime Nos. 1973 and 1566 of 2016 on the file of the 1st respondent Police are quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mkn



To

1.The Inspector of Police,
Chrompet Police Station,
Chrompet, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.K.Balasubramaniam, Advocate SR. No.61666 & 61665

Cr1.O.P.Nos.19179 & 19215 of 2017

PM (CO)

PR (09/12/2021)