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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.19653 of 2017
and
Crl.M.P.No.11862 of 2017

1. Lakshmaiah
- 2.Venu
3. Banumathi
4. Thimmarayappa ... Petitioners/ Accused

Vs.

1. The State rep. By
Sub-Inspector of Police
Bagalur Police Station
Krishnagiri District.
(Crime No.19 of 2017) ...1st Respondent/Complainant
2. Raj K.Suri
...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in Crime No.19 of 2017 on the file of Sub Inspector of Police, Bagalur Police Station, Krishnagiri District, quash the same.

For Petitioners : Mr.R.Bharath Kumar
For Respondents : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)
for R-1
Mr.B.Harikrishnan
for R-2

O R D E R

(This case has been heard through video conference)

This petition has been filed to quash the First Information Report filed in Crime No.19 of 2017 for the offences under sections 447, 379 and 506(ii) of Indian Penal Code and Section 3 of Tamil Nadu Public Property [Prevention of Damages and Loss] Act 1992.



2. It is the contention of the learned counsel for the petitioner that the present First Information Report is an abuse of process law. In an earlier occasion similar complaint has been filed, which has been charge sheeted and the case has ended in acquittal in C.C.No.76 of on the file of the Sub Court, Hosur on 08.12.2016. Immediately, within a month, the present complaint has been lodged on 19.1.2017. Further, a suit for easementary right has also filed in O.S.No.114 of 2014 on the file the District Munsif, Hosur, wherein an Advocate Commissioner has been appointed and he has also filed a report. In the above suit, interim Order has also been passed in favour of the petitioner herein. Therefore, it is his contention that the First Information Report is nothing but a abuse of process of law and the same has to be quashed.

3. Whereas, the learned counsel for the second respondent submitted that as against the acquittal of the criminal case, an appeal has been filed in C,A.No.470 of 2017 and the same is pending. It is his further contention that RDO has given a finding in proceedings under section 145 of Code of Criminal Procedure on 14.02.2014 that the defacto complainant is in possession of the property. The above finding has been challenged before this Court in a Criminal Revision case No.301 of 2014 and this Court has dismissed the revision. Therefore, it is his contention that merely because earlier proceedings has ended in acquittal, it cannot be said that the First Information of Report is totally an abuse of process of law. The present First Information Report has been lodged on the basis of a separate incident with regard to a dispute in the property. Hence, the First Information Report cannot be quashed.

4. This Court, while exercising its jurisdiction under section 482 of Code of Criminal Procedure, cannot decide whether the allegations in the First Information Report are true and the same has to be decided only during the investigation. Further, considering the nature of dispute between the parties, this Court is of the view that no prejudice would be caused to the petitioner if the police continue to investigate the matter and unearth the allegations, particularly with regard to the allegations in the First Information Report. Therefore, at this stage, it is premature to quash the First Information Report and this Court is not inclined to quash the First Information Report. It is for the Investigating Officer to investigate the case taking into consideration the entire proceedings between the parties and file a final report.



5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VII)

Sub Assistant Registrar

vrc/gd
To

1. The Sub-Inspector of Police
Bagalur Police Station
Krishnagiri District.

2. The Public Prosecutor,
High Court of Madras.

+1 cc to Mr.B.Harikrishnan, Advocate Sr.NO.59399

+1 cc to Mr.R.Bharath Kumar ., Advocate Sr.NO. 59573

CrI.O.P. No.19653 of 2017

mg(CO)
A.SK(07.12.2021)