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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL. O.P. NO.28646 OF 2017

AND

CRL.M.P.NOS.16216 AND 16217 OF 2017

1. S.Palanivel

2. Sababathy Gounder

...Petitioners/Accused 1 & 2

Vs

1. State

rep. By The Inspector of Police
Mallasamutharam Police Station
Namakkal District.

2. P.Krishanan

...Respondents/Complainant/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to quash the chargesheet in C.C.No.308 of 2012 on the file of the Judicial Magistrate Court, Tiruchengode, Namakkal District.

For Petitioners ... Mr.R.C.Paul Kanagaraj

For Respondent ... Mr.R.Kishore Kumar
Government Advocate
Criminal Side)
for R.1.

Notice sent - service awaited
for R.2



O R D E R

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.308 of 2012, pending on the file of the learned Judicial Magistrate, Tiruchengode.

2. The crux of the prosecution case is that defacto complainant is the son of the vendor of the accused. The accused trespassed into the property of the defacto complainant and also removed the boundaries. Hence, complaint was filed under Sections 447, 341, 427, 434 and 506 (i) of the Indian Penal Code.

3. Heard Mr.C.Paul Kanagaraj, learned counsel appearing for the petitioners and Mr.R.Kishore Kumar, learned Government Advocate (Criminal Side) for the first respondent. There is no representation on behalf of the second respondent.

4. It is the contention of the learned counsel appearing for the petitioners that the entire prosecution is nothing but motivated. The defacto complainant has filed the present complaint only due to the purchase made by A.1 from the father of the defacto complainant, in respect of the immovable property, through sale deed, dated 18/9/2006. It is his further contention that he has filed a suit for declaration to declare that sale deed as null and void in O.S.No.128 of 2007 and the same was also dismissed for default.

5. This complaint is also filed as if the accused have trespassed into the property and caused mischief by removing the palmirah trees. Though the prosecution has laid a final report. On perusal of the entire materials do not constitute an offence. Admittedly, A.1 has purchased the property in the year 2006. The above sale was questioned in a Civil Suit by the defacto complainant which was also dismissed for default. When the entire materials indicate that this case is motivated, somehow or other, the purchaser is in enjoyment of the property, such prosecution cannot be allowed to continue. The same is nothing but an abuse of process of law. The allegation of alleged threat is without any particulars. Considering the nature of the dispute, it is given a criminal colour by the defacto complainant who is aggrieved over the sale of the property by his father. Therefore, this Court is of the considered view that it is a fit case to quash the proceedings in C.C.No.308 of 2012, pending on the file of the learned Judicial Magistrate, Tiruchengode, Namakkal.



6. In the result, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Judicial Magistrate,
Tiruchengode, Namakkal District.
2. The Inspector of Police
Mallasamutharam Police Station
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.

Crl. O.P. No.28646 of 2017

PA(CO)
RLP(07/01/2022)