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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.NO.26517 OF 2018

AND

CRL.M.P.NO.15259 OF 2018

1.A.Kumaresan

2.T.Srinivasan

3.N.Vetriselvan

...Petitioners / Accused A1 to A3

Versus

1.The District Superintendent of Police,
Office of the District Superintendent of Police,
Vengikkal, Tiruvannamalai Town,
Tiruvannamalai District.

2.The State,
rep.by the Inspector of Police,
Tiruvannamali Town Police Station,
Tiruvannamalai, Tiruvannamalai District.

3.G.Elangovadi

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, pleased to call for the records and quash the FIR in the above Cr.No.1410 of 2018 on the file of the 2nd respondent Police.

For Petitioner : Mr.J.Ashok

For RR1 and 2 : Mr.C.E.Pratap
Government Advocate
(Crl.Side)

For RR3 : Mr.S.Silambu Selvan



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O R D E R

The petitioners have filed this petition seeking to call for the records and quash the FIR in the above Cr.No.1410 of 2018, on the file of the 2nd respondent Police.

2. Facts leading to the present round of litigation is that the 2nd petitioner is a Social Activist and is engaged in many social and cultural activities in and around Tiruvannamalai Town and District. There was a land dispute between the 2nd petitioner herein and his neighbour Mrs.Vasuki, in which both parties had lodged complaints against each other before the 1st respondent, who after obtaining letters of undertaking from both the parties concerned, had closed the complaints. Thereafter also, there were series of disputes and complaints between the parties. However, it is alleged by the petitioners that the police officers in connivance and collusion with the 3rd respondent, has registered a false case against the 2nd petitioner and aggrieved by the same, the 2nd petitioner also organized agitation / demonstration against the atrocities of the police officials. While being so, the 1st petitioner is the owner of an immovable property, a house allotted by the Tamil Nadu Housing Board, bearing no.LIG-315 at Thamarai Nagar, Tiruvannamalai Town, Tiruvannamalai District. Initially in the year 1999, the 3rd respondent herein had entered into an Agreement of Sale with the 1st petitioner for purchasing the said property allotted by the Tamil Nadu Housing Board. Though at that time, the 1st petitioner was only an allottee and was not conferred with the title to the property, with an understanding that the 3rd respondent would pay the required money and get the title transferred once it had been transferred in favour of the 1st petitioner, an agreement of sale was entered into between the 1st petitioner and the 3rd respondent. Since, the 3rd respondent had some issues with regard to clearances in the Government for purchase of the said property, the sale did not get finalized and the advance amount received from the 3rd respondent was refunded by the 1st petitioner. However, the 3rd respondent had been insisting the 1st petitioner for payment of interest, which the 1st petitioner declined to pay. Later, the 3rd respondent along with some men, broke open the house and trespassed into the premises of the 1st petitioner, who in turn had resisted the illegal acts of the 3rd respondent. When the 3rd respondent approached the 2nd respondent official in that regard, he was advised to approach the Civil Courts. Having failed on his attempts to grab the property, the 3rd respondent had taken his family members to the office of the District Collector and created a drama as if he attempted to commit suicide with his family members due to the acts of the petitioners. Thereafter, on the instructions of the District Collectorate, a case was registered by the 2nd respondent Police on the complaint dated



15.10.2018, in Cr.No.1410 of 2018 against the petitioners for the alleged offences under Section 147, 448, 594(b) and 506(2). Aggrieved by the same, the present petition is filed by the petitioners.

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3. The learned counsel appearing for the petitioners submitted that in the FIR it is alleged by the 3rd respondent that the petitioners on the date of occurrence on 15.10.2018, had come to the scene of occurrence in a vehicle Toyota Innova bearing Registration No.TN-25-S-2525 and had uttered unparliamentary words against the 3rd respondent and threatened him with dire consequence. It is submitted by the learned counsel for the petitioners that moreover, the alleged vehicle involved in the above said complaint of the 3rd respondent was formerly owned by the 2nd petitioner, which was sold to a third party Mr.Thangapandi of Theni District, an year before and therefore, the fact itself proved that the complaint of the 3rd respondent is motivated and thereby it is clear that the petitioners are wrongly implicated in this case. Hence prays for quashment of the complaints as it was filed in order to harass the petitioners.

4. The learned Government Advocate (Crl.Side) submitted that it is only an information passed on to the law enforcing agency regarding the above said offence and, if the investigation did not reveal any offence, the respondent Police may drop the case against the petitioners. Therefore, the petitioners, without cooperating with the investigation, straight away approaching this Court by filing this petition is not sustainable and hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. As admitted by the learned Government Advocate (Crl.Side), it is only an information passed to the law enforcing agency. Therefore this Court without expressing any opinion on the merits of the matter, is inclined to give liberty to the petitioners to approach the law enforcing agency to prove their genuineness by producing all relevant documents and may disprove the case of the defacto complainant. However, the petitioners, without exhausting the remedy available before the respondent Police, approaching this Court by filing the petition under Section 482 Cr.P.C, is not maintainable.

7. For the reasons aforesaid, this Criminal Original Petition is dismissed and the petitioners are at liberty to file all relevant materials available with them at the time of enquiry to disprove the case of the defacto complainant. The 2nd respondent, after receipt of such documents produced by the



petitioners, shall consider the same and complete the enquiry as expeditiously as possible. Consequently connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Superintendent of Police,
Office of the District Superintendent of Police,
Vengikkal, Tiruvannamalai Town,
Tiruvannamalai District.
- 2.The Inspector of Police,
Tiruvannamali Town Police Station,
Tiruvannamalai, Tiruvannamalai District.
- 3.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.26517 of 2018

VBM(CO)
RVM(23/11/2021)