

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.27900 of 2018
and Crl.M.P.No.16167 of 2018

Sagunthala ...Petitioner/ Accused (A8)

Versus

1.The State rep.by
The Inspector of Police,
Sozhatharam Police Station,
Cuddalore District.
(Cr.No.96/2018)

2.Kuppusamy ...Respondents/
Complainant & Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records from the file of the 1st respondent herein viz., Inspector of Police, Sozhatharam Police Station, Cuddalore Districtin Cr.No.96 of 2018, insofar as this petitioner is concerned and quash the same.

For Petitioner : Mr.K.Balu

For RR1 : Mr.C.E.Pratp
Government Advocate (Crl.Side)

ORDER

The petitioner has filed this petition to call for records from the file of the 1st respondent herein viz., Inspector of Police, Sozhatharam Police Station, Cuddalore District concerned in Cr.No.96 of 2018, insofar as this petitioner is concerned and quash the same.

2. The case of the petitioner is that the father-in-law of the petitioner has purchased a property situated at Pudaiyur Village S.No.159/15, measuring to an extent of 55 cents from the defacto complainant in the year 1988 and the defacto complainant executed a Consent Deed in favour of the petitioner's father-in-law. From the date of purchase, the sons of the petitioner's father-in-law is in peaceful possession of the above said property without any hindrance and the Government also issued

Patta in favour of the father-in-law of the petitioner. Suddenly after a lapse of 30 years, the defacto complainant claimed right over the property without any substantial materials. Further in order to grab the property, the defacto complainant chosen to lodge a false complaint against the petitioner. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that the alleged offence is said to have taken place on 14.12.2017, however the complaint was preferred only after five months on 03.05.2018 and there is no proper explanation for the delay in filing the complaint and the respondent Police has also mechanically registered a case against the petitioner without verifying the genuineness of the complaint. Further, the petitioner is not at all present at the alleged scene of occurrence. On the particular date, she was on duty from 9.00 am to 2.30 p.m and thereafter, she gone to the office of the Children Health Plan, Keerapalayam, for getting eggs for mid-day meal and left the office only at 6.00 p.m. Therefore, the defacto complainant has lodged a complaint on baseless allegation without any materials and hence prays for quashment of the order.

4. The learned counsel appearing for the respondents submitted that there are five cases lodged against the petitioner. She is a criminal accused and claimed rights over the property illegally through one Govindarasu, by forging the documents and at the threshold, this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Investigating Officer and the same shall be considered on its own merits and in accordance with law and prays for dismissal of this petition.

5. This Court has carefully considered the rival submission and also perused the materials placed before it.

6. A perusal of the materials reveals that the complainant has already lodged a complaint against the petitioner on 31.10.2017 for the offences under Section 434, 294 (b) and 506(a) IPC. Once again, thereafter, it is alleged that on 04.02.2018, the accused persons threatened the defacto complainant and prevented away from his land. Though, the said occurrence is said to have taken place on 04.02.2018, against which the complaint was lodged by the complainant only on 03.05.2018, belatedly after a lapse of three months, Further it is seen from the records that on the particular date of occurrence, the petitioner was on duty from 9.00 am to 2.30 p.m and thereafter, she gone to the office of the Children Health Plan, Keerapalayam, for getting eggs for mid-day meal and left

the office only at 6.00 p.m and necessary document in that regard has also been filed along with the typed set of papers. Therefore, it is evident that the petitioner has not present at the scene of occurrence when the alleged offence is said to have taken place.

7. Considering the facts and circumstances of the case and further considering the delay in filing FIR against the petitioner, this Court is inclined to quash the FIR.

8. Accordingly, this Criminal Original Petition is allowed and the complaint in Cr.No.96 of 2018, on the file of the Inspector of Police, Sozhatharam Police Station, Cuddalore District, is quashed. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Sozhatharam Police Station,
Cuddalore District.

2.The Public Prosecutor,
Madras High Court.

+1cc to Mr.K.Balu, Advocate, S.R.No.52118

+1cc to Mr.R.Murali, Advocate, S.R.No.51886

CRL.O.P.No.27900 of 2018

SR(CO)

SB(23/11/2021)