



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE **R. THARANI**

Crl.O.P.(MD)Nos.2055 and 2058 of 2021

and

Crl.M.P(MD).Nos.1001, 1002, 1004 and 1005 of 2021

1.Mohammad Ali Jinna
2.Jannath Begum

... Petitioners in
Crl.O.P(MD).No.2055 of 2021

1.Vinodkumar
2.S.Arumugaraj

... Petitioners in
Crl.O.P(MD).No.2058 of 2021

Vs.

1.The Inspector of Police,
Kalakad Police Station,
Tirunelveli.
(In Crime No.452 of 2017)

2.Seyhappa

... Respondents in
both petitions

Common Prayer : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the case in C.C.No.456 of 2020 on the file of the learned Judicial Magistrate, Nanguneri in connection with Crime No.452 of 2017 on the file of the respondent police and quash the same as illegal as far as the petitioners are concerned.

In both petitions

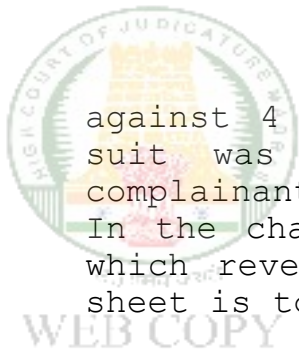
For Petitioners : Mr.J.Jeyakumaran

For Respondent No.1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

The present petitions are filed to quash C.C.No.456 of 2020 on the file of the learned Judicial Magistrate, Nanguneri.

2. On the side of the petitioners it is stated that FIR was registered against the petitioners in Crl.O.P(MD).No.2055 of 2021 and 10 unknown persons, but later charge sheet was filed only



against 4 persons. The police failed to consider that the civil suit was already decreed. The petitioners and the defacto complainant divided the property and they are in possession of them. In the charge sheet it is stated that the suit is still pending, which reveals that the investigation is not proper and the charge sheet is to be quashed.

3.On the side of the respondents it is stated that already investigation was over. Charge sheet has been filed and the same was taken on file in CC.No.456 of 2020 by the learned Judicial Magistrate, Nanguneri. The charge sheet was laid against 4 persons for causing a damage worth Rs.10,000/-. The presence of the petitioners was recorded in 161 statement. The scope of the examination of documents on the side of the accused is very limited and prayed the petitions to be dismissed.

4.On the side of the petitioners/accused Nos.3 and 4 it is stated that FIR was originally registered against A1, A2 and 10 unnamed persons. In the charge sheet four persons were cited as accused. The petitioners/accused Nos.3 and 4 are practising Advocates. The allegation against them is that they were standing outside, when A1 entered into the house of the defacto complainant and caused damage. Infact both advocates were enquired as witnesses, but they have been falsely implicated in the case. It is further stated that an Innova car was alleged to have been used by eighth accused and that there was no seizure of the car by the police. Hence, the investigation is not proper and prayed the charge sheet to be quashed.

5.A perusal of the records reveals that charge sheet was already filed against four persons and is pending before the learned Judicial Magistrate, Nanguneri. The allegation put forth by the petitioners is that the police has mistakenly filed the charge sheet as if civil suit was pending between the parties, whereas the civil suit was already decreed. The matter to be decided in the criminal case is not regarding the civil rights. Civil suit has been mentioned only to elicit that there was previous enmity between the parties, no other points was put forth by the petitioners for quashing the charge sheet. Hence, the Criminal Original petitions are dismissed with liberty to the petitioners to file a discharge petition, if they are so advised.

6.On the side of the petitioners it is states that since A3 and A4 are practicing advocates, their personal appearance may be dispensed with and that the petitioners undertook to appear on necessary hearing dates such as at the time of questioning and at the time of pronouncing judgment and as and when required by the Court.

7.On the above submissions, the personal appearance of the petitioners/accused 3 and 4 is dispensed with on condition that they



have to appear as and when instructed by the Court. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate, Nanguneri.
- 2.The Inspector of Police,
Kalakad Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)Nos.2055 and 2058 of 2021
11.02.2021

VB (26.02.2021) 3P 4C