



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2021

CORAM :

THE HONOURABLE **Mrs. JUSTICE R. HEMALATHA**

Crl.O.P. (MD)No.3991 of 2021

and

Crl.M.P (MD) .Nos.2209 and 2210 of 2021

WEB COPY

1.Chokkathai

2.Priya

...Petitioners/Accused 1 &2

Vs.

1.State rep., by

The Inspector of Police,

Rajapalayam South Police Station,

Rajapalayam, Virudhunagar District.

(Crime No.268 of 2016)

...1st Respondent/Complainant

2.Radhakrishna Raja

...2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in STC.No.1147 of 2019 on the file of the learned Judicial Magistrate, Rajapalayam and quash the same.

For Petitioners : Mr.Lakshmi Gopinathan

For R1 : Mr.A.Robinson

Government Advocate (Criminal Side)

ORDER

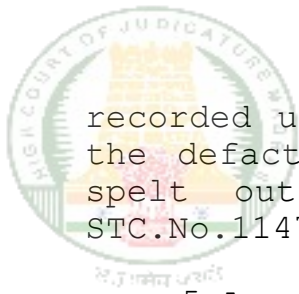
The present petition is filed by the petitioners seeking to quash the proceedings in STC.No.1147 of 2019 on the file of the Judicial Magistrate, Rajapalayam.

2.The primordial contention of the learned counsel for the petitioners is that the petitioners have not committed any offences punishable under Sections 294(b) and 506(i) and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act.

3.A perusal of the records shows that initially the case was committed to the Court of Sessions by the Judicial Magistrate and since the Sessions Judge felt that an offence under Section 3(i) of Tamil Nadu Property (Prevention of Damage and Loss) Act is not made out, instructed the Judicial Magistrate to conduct trial in respect of other offences punishable under Sections 294(b) and 506(i) of the Indian Penal Code. Accordingly, the learned Judicial Magistrate numbered the case as STC.No.1147 of 2019.

4.Mr.Lakshmi Gopinathan, learned counsel appearing for the petitioners drew the attention of this Court to the statement

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recorded under Section 161(3) of the Code of Criminal Procedure of the defacto complainant and contended that since no overt act is spelt out against the petitioners, the entire proceeding in STC.No.1147 of 2019 should be quashed.

5.A perusal of the final report and the statement of the witnesses *prima facie* make out offences punishable under Sections 294(b) and 506(i) of the Indian Penal Code. The contention of the learned counsel for the petitioners, that only with an ulterior intention to grab the property of the present petitioners, the second respondent has foisted a false case against the petitioners needs elaborate evidence. Moreover, it cannot be a ground to quash the entire proceedings, since as already observed it is a matter for trial.

6.In the circumstances, I do not find any reason to quash the proceedings in STC.No.1147 of 2019. Accordingly, the Criminal Original Petition is dismissed.

7.The personal appearance of the petitioners is dispensed with. However, they should appear before the Judicial Magistrate, whenever their presence is required. Accordingly, Crl.M.P(MD).No.2210 of 2021 is ordered. Consequently, Crl.M.P(MD).No.2209 of 2021 is also dismissed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate, Rajapalayam.

2.The Inspector of Police,
Rajapalayam South Police Station,
Rajapalayam, Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, (Mr.Lakshmi Gopinathan) Advocate
(SR-11852[F] dated 17/03/2021)

Crl.O.P. (MD)No.3991 of 2021
16.03.2021

TP (CO)

KB(24.04.2021) 2P 5C

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