



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.13302 of 2021

and

Crl.M.P. (MD)No.6872 of 2021

Thangasamy

... Petitioner/2nd Accused

Vs.

1.State through

The Inspector of Police,
K V Nallur Police Station,
Tenkasi District.

(In Crime No.96 of 2021)

...Respondent/ Complainant

2.Subbiah

...2nd Respondents /
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings of the FIR in Crime No.96 of 2021 dated 16.03.2021 on the file of the 1st respondent insofar as the petitioner is concerned.

For Petitioner : Mr.K.Jeyakohan
For Respondents : Mr.T.Senthil Kumar,
Addl. Public Prosecutor for R1.
Mr.I.Pinaygash for R2

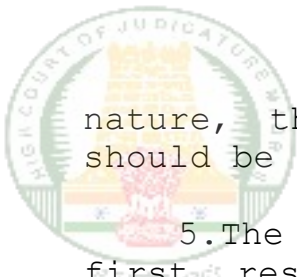
ORDER

This criminal original petition has been filed for quashing the impugned FIR in Crime No.96 of 2021 registered on the file of the Inspector of Police, K V Nallur Police Station, Tenkasi District for the offences under Sections 294(b), 324 and 506(ii) of IPC.

2.The petitioner is figuring as the second accused in the said FIR. To quash the FIR insofar as he is concerned, this criminal original petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds and submitted that the petitioner has been falsely implicated.

4.Per contra, the learned counsel appearing for the defacto complainant has submitted that no case for quashing has been made out. He pointed out that he was seriously injured and he was in hospital quite a few days. He submitted that in a case of this



nature, the investigation should not be scuttled and that it should be allowed to proceed to its logical conclusion.

5.The learned Additional Public Prosecutor appearing for the first respondent submitted that the investigation has been completed and that the final report is pending for approval of the Assistant Public Prosecutor. According to him, no case for quashing the FIR has been made out.

6.I carefully considered the rival contentions and went through the materials on record. The case of the defacto complainant is that he had purchased a property from one Vellaisamy S/o.Thirumal. His vendor's brother by name Perumal owned the property on the back side. On the said land, his son namely Soundarajan was putting up construction. One Manimaran was overseeing the construction activities. According to the defacto complainant, Manimaran was rising the construction in such a way as to block the common pathway. Therefore, there was enmity between Manimaran's family and the defacto complainant. Whiles on 16.03.2021, Manimaran had brought workers to carry on with the construction. The defacto complainant accosted them at about 10.00 am and asked them as to why without leaving set back area, construction work is being carried on. According to the defacto complainant, Manimaran and the petitioner herein had replied in an abusive manner. When the defacto complainant called upon the construction workers to stop their work, Manimaran is said to have hacked the defacto complainant on his back. The petitioner also is said to have criminally intimidated the defacto complainant. The defacto complainant got himself admitted in Government Hospital, Sankarnkovil and based on the information given by him, the impugned FIR came to be registered.

7.A careful reading of the complaint given by the defacto complainant indicates that it was Manimaran, who hacked him on his back with an aruval. Therefore, the offence under Section 324 of IPC is not at all made out as far as the petitioner is concerned. The allegations made against the petitioner are under Sections 294 (b) and 506(ii) of IPC. Even according to the petitioner, the occurrence took place only in their private land. The occurrence did not take place in a public place. Therefore, the offence under Section 294(b) of IPC is not at all attracted. The further question is whether the offence under Section 506(ii) of IPC is made out against the petitioner. The petitioner is said to be an employee of TNEB. Even according to the defacto complainant, the petitioner has no share whatsoever in the property in question. The petitioner and one Perumal are owning adjacent lands. Perumal's son was carrying on construction activities. The grievance of the defacto complainant was that no space was left in between. By no stretch of imagination, the petitioner has any



stake in the matter. The petitioner's counsel would contend that since the petitioner is working as TNEB employee, in order to coerce Manimaran to come to a settlement, he has been roped in. The Hon'ble Supreme Court in Bajan Lal's case has held that if the Court can come to a conclusion that the prosecution is attended by mala fides, that is a ground for quashing the FIR itself. I am more than satisfied that the case projected against the petitioner is inherently improbable. Continuance of the impugned prosecution against the petitioner would constitute an abuse of legal process. The impugned FIR is quashed as far as the petitioner is concerned. Taking note of the other aspects, the first respondent is directed to file the final report before the jurisdictional Magistrate within a period of ten days from the date of receipt of a copy of this order. The jurisdictional Magistrate will take a call in the matter within a period two weeks thereafter.

8.This criminal original petition is allowed with the aforesaid directions. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// 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.

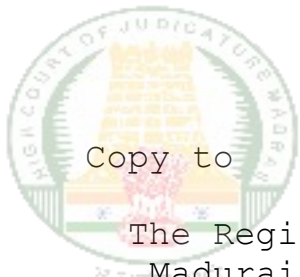
To:

1.The Judicial Magistrate,
Tenkasi.

2.Do through,
The Chief Judicial Magistrate.
Tenkasi.

3.The Inspector of Police,
K V Nallur Police Station,
Tenkasi District.

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



Copy to

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.PRABHU, Advocate (SR-36793[F] dated 01/12/2021)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-36848[F] dated
01/12/2021)

Crl.O.P(MD)No.13302 of 2021
30.11.2021

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