



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 01.03.2021

DATE ON WHICH PRONOUNCED : 31.03.2021

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.15966 of 2017

and

Crl MP(MD)No.10588 of 2017

1.Ganapathy Moopanar

2.Sivanarayanan

... Petitioner/Accused Nos.1 & 2

Vs.

1.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.

... Respondent/Complainant

2.Arumugam

... Respondent/Defacto Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records and quash the proceedings in C.C.No.288 of 2017 pending on the file of the Judicial Magistrate No.1, Kovilpatti.

For Petitioner : Mr.P.Samuel Gunasingh

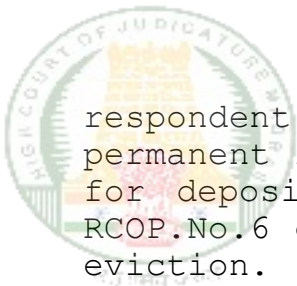
For R1 : Mr.M.Ganesan,
Government Advocate (Crl.Side)

For R2 : Mr.S.Ramasamy

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.288 of 2017 pending on the file of the Judicial Magistrate No.1, Kovilpatti.

2.The second respondent is running a watch company in a rented shop, which belongs to the first accused, who is the first petitioner herein for about 76 years. According to the second respondent, the petitioner demanded higher rent. That was refused by him. So, a suit in O.S.No.228 of 2015 was filed by the second



respondent before the District Munsif Court, Kovilpatti for permanent injunction and also filed a petition in RCOP.No.1 of 2016 for deposit of rent and the petitioner also filed a petition in RCOP.No.6 of 2016 before the District munsif Court, Kovilpatti, for eviction.

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3.Heard both sides.

4. From the facts narrated above, it is seen that the second respondent is the tenant under the first petitioner. There is a dispute between the parties over the payment of rent. For resolving the dispute, both have filed suit and Rent Control Original Petitions. During the pendency of the above said proceedings it appears that the present occurrence said to have taken place.

5. It is further seen that in respect of the same occurrence, case and counter case has been preferred by both the parties. Based upon the complaint given by the second respondent, a case in Crime No.95 of 2017 was registered. Similarly, the petitioners have also given a complaint against the second respondent stating that they were physically assaulted and abused and the same was registered in Crime No.495 of 2017 on the file of the first respondent. According to the petitioner none of the allegations mentioned in the final report, attract any of the penal provisions against the petitioners. The further contention is that the accused Nos.3 to 7 filed Crl.OP. (MD)No.1162 of 2018 before this Court and the same was allowed on 04.09.2019. So, according to the petitioners, the same benefit must be extended to them.

6. The question which arises for consideration is whether the benefit of quash order in the above said Criminal Original Petition can be extended to the petitioners also. Reading of the First Information Report shows that the petitioner alleged to have abused the second respondent in filthy language and criminally intimidated him. It is also stated that they also tried to assault the second respondent with a crow bar. They have also alleged to have removed the door, fitted inside of the shop, run by the second respondent. So, the argument on the side of the petitioner that none of the offence mentioned in the final report are attracted against the petitioners cannot be accepted at this stage.

7. Enough materials have been collected by the Investigating Officer during the course of investigation. The veracity of the statements recorded by the Investigating Officer and the facts stated by the witnesses have to be decided only during the course of evidence. Moreover, the co-accused were given the benefit of quashment only on the ground that no overt act were attributed against them.

8. It is also seen that those petitioners were only labourers of the first petitioner and they had no intention to



commit rioting or criminal act. So, the case of the petitioners is standing entirely on different footing. So, the benefit rendered to the co-accused, in the above said Criminal Original Petition, cannot be extended to these petitioners.

9. So, I am of the considered view that this is not a fittest case to quash the criminal proceedings and it has to be pursued to its logical conclusion.

10. For the reasons stated above, the Criminal Original Petition deserves dismissal and accordingly dismissed. So, the Trial Court shall proceed with the trial of the case, without being influenced by any of the observations made by this Court in this petition. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

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/ /2021

Sub Assistant Registrar(CS)

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 No.1,
Kovilpatti.
- 2.The The Inspector of Police,
Kovilpatti West Police Station,Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

Crl.O.P. (MD)No.15966 of 2017
and
Crl MP (MD)No.10588 of 2017

MA (19.05.2021) 3P 4C