



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.11801 of 2018 and
CrI.M.P.Nos.6217 & 6218 of 2018

1.S.M.Omar
2.Ayisha Ummal
3.Mohammed Gaouse@Kaka
4.G.Anbalagan
5.Padmini

...Petitioners/Accsed 1 to 5

Versus

Shaik Dawood Maraicair

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and to quash the criminal proceedings in so far as the petitioners are concerned in C.C.No.66 of 2018, pending on the file of the learned Judicial Magistrate II, Karaikal.

For Petitioners : Mr.G.Palani
For Respondent : No appearance

ORDER

This Criminal Original Petition is heard through Video-Conferencing, on account of COVID-19 pandemic situation.

2. This Criminal Original Petition has been filed to quash the First Information Report in C.C.No.66 of 2018, filed against the accused for the offence under Sections 294(b), 323, 341, 447, 449, 454, 506(ii) IPC r/w Section 149 IPC, on the file of the learned Judicial Magistrate II, Karaikal.

3. It is stated by the learned counsel appearing for the petitioners that the first petitioner was 93 years old at the time of filing the criminal original petition and he is no more now. The statement of the learned counsel appearing for the petitioners is recorded.

4. The crux of the allegation is that the de facto complainant on his return from chennai, on 19.03.2017, he found that there was a wall put up restricting entry from back door



and came to know that the first accused with the help of others has put up the said wall. When the de facto complainant went to the first accused and questioned him, all the accused had threatened him and also made a threat, thereby he filed a private complaint on the ground that police has not taken any action against his complaint.

5. The learned counsel appearing for the petitioners mainly contended that there was a Civil Suit pending between two families in O.S. No.29/1984 on the file of learned Principal District Munsif, Karaikal, which was decreed in favour of the present petitioners. As against which an Appeal Suit was filed by the de facto complainant in A.S.No.03 of 2004 on the file of learned Additional District Judge, Pondicherry, which was partly allowed and aggrieved over the same, a Second Appeal in S.A. No.679 of 2018 was filed and the same is pending before this Court. The petitioners have also filed an execution petition in E.P.No.14 of 2017, for the disobedience of the decree and judgment. Hence, only in order to prevent the process, this complaint has been filed implicating all the members. The First Information Report filed has also been closed by the police as a mistake of fact and with the general allegations, this private complaint has been taken on file and hence prayed for quashment.

6. Despite notice served on the respondent, no one has entered appearance on behalf of the respondent. I have heard the learned counsel appearing for the petitioners and perused the entire materials available on record.

7. The allegations in the private complaint indicate that only the de facto complainant entered the house of the petitioners and questioned. At that time, some abusive words were spoken by the petitioners. The alleged occurrence is said to have been taken place inside the house of the present petitioners and the fact that the Civil Suits are pending between the parties are not disputed and established on record. It is also to be noted that, in the private complaint, it is stated that the de facto complaint came to the place of occurrence on 18.03.2017, and immediately he questioned the the first accused, other accused made a threat. Whereas, in the similar allegations given to the police, it is stated as if the occurrence took place on 19.03.2017, when he came from Chennai. The two different stories have been projected by the de facto complainant, one before the police and one in the private complaint.

8. Having regard to the above and the nature of Civil disputes pending between the parties, this Court is of the view that the allegations in the First Information Report is only to target against the family members and the entire occurrence is said to have been taken place in petitioners' house and not even



in the accused place. Considering the above facts, this Court is of the view that the First Information Report is a motivated one and filed to thwart the execution petition. Hence continuation of the criminal proceedings in C.C. No.66 of 2018 is nothing but an abuse of process of law and is liable to be quashed.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.66 of 2018, on the file of the learned Judicial Magistrate II, Karaikal, are quashed. Consequently, the connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

psa/asr

To

1.The Judicial Magistrate II,
Karaikal.

2.The Chief Judicial Magistrate, Puducherry.

+1cc to Mr.G.Palani, Advocate, S.R.No.2799

Cr1. O.P. No.11801 of 2018

GPL(CO)
KKV/01/02/2022