



Crl.O.P.No.9775 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.9775 of 2019

and

Crl.M.P.No.5099 of 2019

T.Shanta

... Petitioner

-Vs.-

R.Nalini

.. Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the entire records pertaining to the private complaint in C.C.No.118 of 2016 on the file of the Judicial Magistrate No.II Court, Tindivanam and quash the same.

For Petitioners :Mr.R.Selvakumar

For Respondent :No appearance



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ORDER

This Criminal Original Petition has been filed to quash the private complaint taken on file in C.C.No.118 of 2016 by the learned Judicial Magistrate No.II, Tindivanam for the alleged offences under Sections 294(b), 323, 324, 403, 406 and 506(ii) IPC.

2. In the complaint, it is alleged that the house, in Karnavur Village in a Government porampoke land, was constructed by the complainant in the year 1994 and she was living with her husband in the said house. Taking advantage of her absence due to her occupation, the petitioner herein has threatened the complainant's husband and encroached upon the house. When the complainant requested the petitioner to hand over the house back to her, she was threatened and abused. Hence a private complaint has been given by the complainant.

3. In this petition, the said private complaint is sought to be quashed on the ground that the building in dispute was constructed in a Government



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porampoke land and it was continuously in occupation of the petitioner.

The house tax is paid by the petitioner and the building was not grabbed by the petitioner as alleged in the complaint. The complainant, who is concubine of the petitioner's husband, had tried to trespass into the house and grab the property, which was prevented by the petitioner. No cognizable offence is disclosed in the private complaint and therefore, it has to be quashed.

4. Even after notice, the complainant/respondent did not turn up.

5. When the matter came up for hearing on 28.09.2022, this Court directed the learned counsel for the petitioner to show the proof of their occupation in the disputed premises, for which the learned counsel has furnished the recent tax receipt dated 19.07.2022, Aadhar Card, Voter ID and Government Scheme Medical Insurance ID to indicate that the petitioner is in continuous occupation of the disputed property.



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6. On perusing the complaint, this Court finds no material to show that the property was constructed by the complainant and was in her possession. Even, if she has any right over the said property, it is a matter to be decided by a Competent Civil Court and the criminal complaint is not a forum to decide the dispute.

7. In view of the above, this Criminal Original Petition is allowed. The private complaint filed against the petitioner is quashed. The order of this Court shall not stand in the way of the complainant to work out her remedy before the appropriate forum. Consequently, connected miscellaneous petition is also closed.

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Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1.The Judicial Magistrate No.II Court,
Tindivanam

2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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