



CrI.O.P.No.11604 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.11604 of 2019

and

CrI.M.P.No.5982 of 2019

Sagasaraman

... Petitioner

-Vs.-

1.State rep by
The Inspector of Police,
Lawspet Police Station,
Crime No.119 of 2016

2.Babu

.. Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records in connection with C.C.No.320 of 2018 on the file of the learned Judicial Magistrate No.I, Pondicherry and quash the same.



Crl.O.P.No.11604 of 2019

WEB COPY

For Petitioner	:Mr.V.M.R.Rajentren
For Respondent	:Mr.V.Balamurugane, Additional Public Prosecutor (Pondy), for R1. Mr.K.Balu, for R2

ORDER

This Criminal Original Petition has been filed to call for the records in connection with C.C.No.320 of 2018 on the file of the learned Judicial Magistrate No.I, Pondicherry and quash the same.

2. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor (Pondy) appearing for the first respondent and the learned counsel appearing for the *de facto* complainant.

3. This is the case where the petitioner herein, who is arrayed as the third accused in C.C.No.320 of 2018, seeks quash of the complaint on the ground that he is no way connected with the alleged crime and based on the documents produced by A1, he is only a tenant under A1.



Crl.O.P.No.11604 of 2019

WEB COPY

4. However, the learned counsel appearing for the *de facto* complainant submits that by fabricating the settlement deed, the property owned by the *de facto* complainant has been trespassed by A1 and A2 and on their instructions A3 was in occupation of the premises. When the *de facto* complainant visited the property and enquired, A3 directed the *de facto* complainant to approach A1 and A2, who had put him in possession and when the *de facto* complainant asserted his title and right over the property, the petitioner threatened him with dire consequences.

5. The learned counsel appearing for the petitioner would submit that the petitioner herein, who is arrayed as third accused, is no way connected with the allegations and he has been unnecessarily rowed in the dispute between the A1 and the *de facto* complainant regarding title of the property.

6. Further, the learned counsel for the petitioner also rely upon the settlement deed executed by the Annam in favour of the Elumalai/A1 on



Crl.O.P.No.11604 of 2019

WEB COPY

24.06.2014 and the tax receipt issued in favour of Elumalai/A1 and also submitted that there is a civil dispute, between *de facto* complainant and A1, regarding title and as far as this petitioner is concerned, who was put in possession as a tenant by A1, after the incident he has vacated the said premise.

7. This Court called for the CD files and on perusing the same, found that as on the date of occurrence, that is 05.08.2016, on visiting the property, the *de facto* complainant found that it has been trespassed by this petitioner, who claims to be a tenant under A1 and A2. In this regard, since this petitioner has informed that he was put in possession by the A1/Ezhumalai and A2/Mahadevan, the *de facto* complainant has given a petition to the District Collector and pursuant to the same, the complaint has been registered.

8. Therefore, It may be correct that this petitioner has now vacated the premises but on the date of occurrence, he had been in occupation of the premises on the instructions of the other two accused, who had no



Crl.O.P.No.11604 of 2019

WEB COPY

right over the property and hence, the subsequent act of the petitioner by vacating the premises will not exonerate him from facing the criminal prosecution. It is for him to prove his occupation in the premises was bonafide and he has not threaten the *de facto* complainant, when he visited the house. This is the matter for trial, which cannot be summarily decided.

9. In view of the above, this Criminal Original Petition for quash is dismissed. Consequently, connected miscellaneous petitions are also closed.

26.10.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa



Crl.O.P.No.11604 of 2019

WEB COPY

To

1.The Judicial Magistrate No.I,
Pondicherry

2.The Inspector of Police,
Lawspet Police Station,
Crime No.119 of 2016

3.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.11604 of 2019

Dr.G.JAYACHANDRAN.J.,

nsa

Crl.O.P.No.11604 of 2019
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