



Crl.O.P.No.18133 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.18133 of 2019

and

Crl.M.P.No.9175 of 2019

1.Subramani
2.Sathish
3.Prabhu
4.Appu
5.Ramu

... Petitioners

Vs.

1.State Rep.by
The Inspector of Police,
Thakkolam Police Station,
Vellore District.

2.V.Vijayan

(The 1st respondent is not a necessary
party in this petition. Hence the 1st respondent
is deleted as per order in Crl.O.P.No.18133/19
and Crl.M.P.Nos.9175 & 9176/19 dt.10.07.19)

... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the proceedings pending in C.C.No.47 of 2018 on the file of learned Judicial Magistrate,



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Arakkonam at Vellore District and quash the same.

For Petitioners : M/s.Dayalan D.
For R1 : Not necessary party
For R2 : Mr.V.Manoharan

ORDER

The property dispute between the siblings has led to filing of the Suit and altercation leading to lodging of complaint against the petitioners herein.

2. The relevant facts required to be considered in this quash petition is that the 2nd respondent/*de facto* complainant has given a complaint dated 30.06.2017 to the Inspector of Police, Thakkolam Police Station alleging that on 26.06.2017, the petitioners tried to kill him and intimidating him with dire consequence. This complaint was not taken for investigation, being aggrieved by that, the 2nd respondent/*de facto* complainant approached this Court in Crl.O.P.No.16122 of 2017 for a direction to the Inspector of Police, Thakkolam Police Station to register the complaint dated 30.06.2017 and investigate the same. The said



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petition was allowed vide order dated 17.08.2017. It appears that instead of implementing the direction of this Court, they have registered a complaint dated 30.06.2017 given by the 2nd respondent and closed it as civil dispute. This being properly noticed, the *de facto* complainant has filed a private complaint before the learned Judicial Magistrate, Arakkonam and the same was taken on file in C.C.No.47 of 2018. Being aggrieved, the present petition to quash the private complaint is filed by the accused on the sole ground that the said private complaint has been taken cognizance without following the dictum of the Hon'ble Supreme Court laid in *Priyanka Srivastava and Another* case.

3. This Court, on perusing the records and the arguments made by the learned counsel for the respondent, with a specific direction to the Inspector of Police, Thakkolam Police Station to enquire the complaint of the 2nd respondent dated 30.06.2017 in connection with the alleged incident took place on 26.06.2017, had passed the closure report in respect of previous complaint and so far not investigated the subsequent complaint dated 30.06.2017 in respect of incident alleged to



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have been taken place on 26.06.2017. Therefore, stated that the present private complaint is filed without following the procedure laid down.

4. This Court, on perusing the records and the arguments made by the respondent, found that the 1st respondent in spite of specific direction to enquire the complaint of the 2nd respondent dated 30.06.2017 in connection with the alleged incident took place on 26.06.2017 had filed the closure report in respect of previous complaint and not so far investigated. The subsequent complaint dated 30.06.2017, in respect of the incident alleged to have been taken place on 26.06.2017. Therefore, the present private complaint without following the procedure laid down by the Court been directly filed before the Judicial Magistrate even without an affidavit.

5. Hence the complaint in C.C.No.47 of 2017 is quashed. The 1st respondent police is directed to comply the direction of this Court dated 17.08.2017 passed in Crl.O.P.No.16122 of 2017 and take appropriate action in accordance with law within a period of two months



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from today. Accordingly, this ***Criminal Original Petition is allowed.***

Consequently, the connected Criminal Miscellaneous Petition is also closed.

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Index: Yes/No

Speaking Order/Non Speaking Order

To

1.The Judicial Magistrate, Arakkonam, Vellore.

2.The Inspector of Police,
Thakkolam Police Station,
Vellore District.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN, J.

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