



CRL.O.P.No.19490 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>07.12.2022</i>
<i>Pronounced on</i>	<i>21.12.2022</i>

CORAM

THE HON'BLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.19490 of 2019
and Crl.M.P. No.9982 of 2019

1. S.Saravanan
2. K.Parthiban
3. K.Manohar ... Petitioners

vs.

1.The Inspector of Police,
S-7, Madipakkam Police Station,
Madipakkam, Chennai.
2. Kumara Krishnan .. Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records culminating FIR in Cr. No.256 of 2019 on the file of the first respondent herein and quash the same.

For Petitioners : Mr.R.Srinivas
for M.Santhanaraman
For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor
2 : Mr.R.M.D.Nasrullah



CRL.O.P.No.19490 / 2019

ORDER

WEB COPY

This Criminal Original Petition has been filed to call for the records in Cr. No.256 of 2019 on the file of the first respondent and quash the same.

2. The petitioners are the accused 1, 2 & 3 respectively in a case registered by the first respondent police in Cr. No.256 of 2019 for the offence under Section 380 IPC, on the allegation made by the second respondent / *de facto* complaint that the building materials have been stolen by the second accused / second petitioner at the instigation of the first accused / first petitioner. The petitioners are the accused 1,2 & 3. The complaint was given on 02.07.2019 and the occurrence was said to have been taken place on 23.03.2019.

3. The learned counsel for the petitioners submitted that the delay in lodging the complaint itself would show that the complaint is false; the first petitioner is the owner of the premises where the alleged occurrence took place; the *de facto* complainant and the first petitioner have entered into a property development agreement; since the *de facto* complainant



failed to act in terms of the contract, the said contract was subsequently revoked and thereafter the first petitioner had taken back the possession of his property; even after the contract was terminated, the *de facto* complainant continued to come to the premises and hence the first petitioner had filed a suit in O.S. No.198/2019 on the file of Additional District Munsif, Alandur and obtained an order of interim injunction; since the second respondent did not obey the order of the Court and did not remove the materials from the first petitioner's premises, the first petitioner had sent him several mails prior to the date of occurrence and asked him to clear the materials; subsequently, the second respondent has given a complaint by falsely alleging that the second petitioner had stolen away his materials at the instigation of the first petitioner; since the case has been given with some ulterior motive and without any basis, the First Information Report should be quashed.

4. The learned Additional Public Prosecutor submitted that the second respondent had made a clear allegation as to the theft of the materials and named the accused in the complaint, hence, the investigation should be allowed to go in order to bring out the truth.



5. The place where the occurrence is said to have taken place is the property owned by the first petitioner by virtue of a sale deed dated 20.11.2004. Subsequently, he entered into an agreement with the *de facto* complainant to construct a Stilt plus four storied apartment. In this regard, an agreement was entered into between the first petitioner and the *de facto* complainant on 22.01.2016. Since the second respondent did not execute the work and complete the same as per the agreement, the first petitioner had sent him a letter stating that his contract would be revoked and the project will be handed over to some other builders. Subsequently, the contract was also revoked on 09.02.2019. The second respondent has not challenged the above cancellation in any way. In that case he has to necessarily remove the building materials, if any, in the premises of the first petitioner as per the cancellation agreement. Since the second respondent did not take away such building materials, it necessitated the first petitioner to send several mails to the second respondent calling upon him to take away the excess materials stored by him in his premises.



WEB COPY

6. Only after giving due notice and warning to the second respondent, the first petitioner had removed the goods from the premises.

The actions taken by the first petitioner was only after the due intimation given to the second respondent. The second respondent did not react to the said communications and all of a sudden had chosen to file a criminal complaint against the petitioner without any basis. Having failed to clear the excess materials said to have been kept in the premises of the first petitioner, the second respondent had chosen to give a criminal complaint by alleging that his materials have been stolen by the second petitioner at the instigation of the first petitioner.

7. The materials on the face of it would only show that the complaint is a motivated one and it has been given just for the purpose of harassing the petitioners. The second respondent did not obey the orders of the Court and continued to enter into the premises of the first petitioner even after the termination of the agreement. In such circumstances, I feel it is an appropriate case where the powers of this Court should be exercised under Section 482 Cr.P.C. to quash the First Information Report.



CRL.O.P.No.19490 / 2019

8. Accordingly, this Criminal Original Petition is allowed and the FIR in Cr. No.256/2019 on the file of the first respondent is quashed. Consequently, connected miscellaneous petition is closed.

21.12.2022

Index : Yes/No
Internet : Yes/No
bkn



CRL.O.P.No.19490 / 2019

To
WEB COPY

- 1.The Inspector of Police,
S-7, Madipakkam Police Station,
Madipakkam, Chennai.
- 2.The Additional Public Prosecutor
High Court of Madras
Chennai.



WEB COPY



CRL.O.P.No.19490 / 2019

R.N.MANJULA, J.

bkn

Crl.O.P.No.19490 of 2019

21.12.2022