



CRL.O.P.No.19604 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

CORAM:

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

Crl.O.P.No.19604 of 2019

and

Crl.MP.No.10043 of 2019

1.Vijayarengan

2.Ulaganathan

3.Kalidas

4.Varadhako Anand

.. Petitioners/Accused 1to 4

Versus

1.The State rep by

The Inspector of Police,

Peralam Police Station,

Thiruvarur District.

Cr.No.284/2019

... Respondent/complainant

2.Thiyagarajan

... Respondent /*Defacto*
complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the proceeding of FIR in Crime No.284/2019 on the file of the first respondent and quash the same.



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For Petitioners : Mr.M.Rajkumar
For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor
For Respondent-2 : Mr.R.Baskar

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.284/2019 on the file of the first respondent.

2. The petitioners have been arrayed as A1 to A4. The 2nd respondent / defacto complainant has given a complaint on the allegation that on 25.01.2019 when he harvested paddy and stored it in bags; he came later and he saw that the paddy bags were stolen by the accused 1 and 2 along with other accused. On this allegation, a case has been registered for the offence under section 379 IPC.

3.The learned counsel for the petitioners submitted that the *defacto* complainant does not have any ownership in respect of the property in which he claims to have cultivated; the revenue records would only show the entitlement of the 1st petitioner over the subject land. Since the *defacto* complainant himself does not have any right



over the land, the complaint given by him will not make out a case as against the petitioners for the offence under Section 379 IPC.

4.The learned Additional Public Prosecutor appearing for the first respondent police submitted that since the allegations make out a *prima facie* for the offence of threatening, a case has been registered. Only if the investigation is allowed to continue the rest of the facts would come to light.

5.Heard the submissions made by the learned counsel on either side and perused the materials available on record.

6.It is the submission of the learned counsel for the petitioners that the subject matter of land in which the paddy was cultivated belongs to him and not to the *defacto* complainant. In that case there are several facts like who had cultivated the paddy, who had harvested, who had stored under whose custody the paddy bags were kept, how the occurrence occurred, etc., should be found out by investigation.

7.Even though the entitlement of the said land and its possession must be a matter civil in nature, the allegations about the stolen paddy bags make out a criminal case. Unless the investigation is done, it cannot be known who has the ownership over the paddy bags which were stolen, irrespective



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of the ownership over the land.

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8. At the threshold stage itself, no roving enquiry can be done to unearth the above mentioned facts. The role of the investigative agency cannot be taken up by the Court through the proceedings u/s.482 of Cr.P.C. The materials available on record make out a *prima facie* case and hence, the first respondent police should be allowed to continue the investigation.

In view of the above stated reasons, this Criminal Original Petition stands **dismissed** and the first respondent police is directed to complete the investigation and file the final report as expeditiously as possible. Consequently connected miscellaneous petition is closed.

07.12.2022

Index: Yes/No
jrs



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To:

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1. The Inspector of Police,
Peralam Police Station,
Thiruvarur District.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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