



Crl.O.P.No.25736 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.25736 of 2022
and
Crl.M.P.No.15935 & 15937 of 2022

1.Vasanth Kumar
2.Karthikeyan

... Petitioners

Vs.

1.State Rep.by
The Inspector of Police,
Udumalaipettai Police Station.

2.A.Jayakumar

... Respondents

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records relating to C.C.No.475 of 2017 on the file of Judicial Magistrate-I, Udumalpet and quash the same by allowing this criminal original petition.

For Petitioners ... Mr. M. Arunachalam

For Respondents ... Mr. S. Santhosh,
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition is filed challenging the criminal proceedings in C.C.No.475 of 2017 on the file of Judicial Magistrate-I, Udumalpet and quash the same.

2. Learned counsel for the petitioners contended that the petitioners are accused in C.C.No.475 of 2017 on the file of the Judicial Magistrate-I, Udumalpet. The respondent police prosecuted the petitioners for having committed the offences punishable under Sections 448 and 353 IPC. The occurrence took place on 07.05.2013 while the defacto complainant was in his office. Therefore, Section 448 IPC will not be attracted, no offence is made out under Section 448 IPC. With regard to Section 353 IPC, the occurrence did not took place as stated in the complaint and other statements. Therefore, 353 IPC is also not made out. Hence, seeking to quash the criminal proceedings.



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3. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that summons had been issued for the appearance of the accused.

4. Considered the rival submissions and perused the records.

5. On perusal of the records, it reveals that the petitioners are accused in C.C.No.475 of 2017 on the file of the Judicial Magistrate-I, Udumalpet. The respondent police prosecuted the petitioners for having committed the offences punishable under Sections 448 and 353 IPC. It is not disputed that after investigation charge sheet has been filed and it was taken cognizance by the Court and summons had been issued for the appearance of the accused. Now the petitioners' counsel disputed the allegation that the petitioners entered into the office of the defacto complainant and forcibly taken the file from his hand and threatened. The truthfulness of allegation has to be tested before the trial Court after appreciating evidence let in by the prosecution.



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6. While considering to quash a proceeding by exercising under

Section 482 Cr.P.C., the truthfulness of evidence cannot be evaluated. Any denial of fact, has to be adjudicated before the trial Court by let in evidence by the prosecution. Therefore, before commencement of trial, it is not appropriate to quash the criminal proceedings, when there is a ground made out for trial and disclosing a cognizable offence for trial.

7. Therefore, I find no merit for quashing the proceedings and further, it does not meet the parameters laid down by the Hon'ble Supreme Court in the cases in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)* & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 CrI.L.J.817)*, the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the C.C.No.475 of 2017 pending on the file of the Judicial Magistrate-I, Udumalpet. Therefore, I find no merit and investigation has to be conducted to find out the truth.



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8. Accordingly, the Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed. The trial Court is directed to dispose of the case within a period four months from the date of receipt of copy of this order.

9. Learned counsel for the petitioner requested to dispense with the personal appearance of the petitioners before the trial Court. As per the request made by the petitioners' counsel, the personal appearance of the petitioners before the trial Court is hereby by dispensed with a condition that they should appear before the trial Court for further proceedings, whenever required by the trial Court.

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V.SIVAGNANAM ,J.

AT

To

1.The Judicial Magistrate-I, Udumalpet.

2.The Inspector of Police,
Udumalaipettai Police Station.

3.The Public Prosecutor,
High Court of Madras.

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