



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.18057 of 2017

and

CrI.M.P.Nos.11009, 11010 of 2017

D.C.Sureshbabu

...Petitioner/Sole Accused

Versus

1. The State,

Represented by its Inspector of Police,

Thazhambur Police Station,

Chennai 600 130.

... 1<sup>st</sup> Respondent/Complainant

2. P.Arunagiri

... 2<sup>nd</sup> Respondent/Defacto Complainant

Prayer: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code praying to call for the records relating to C.C.No.127 of 2017, pending on the file of the Learned Judicial Magistrate-I, Chengalpattu, quash the same.

For Petitioner : Mr.S.Vijaya Ganesh

For Respondent : A.Damodaran  
No.1 Additional Public Prosecutor

For Respondent : Mr.G.P.Kothandaraman  
No.2

ORDER

The petitioner, who is the accused in C.C.No.127 of 2017, which is pending for trial before the Judicial Magistrate-I, Chengalpattu, has filed the quash petition.

2.The contention of the learned counsel for the petitioner is that the 2nd respondent/defacto complainant is none other than the father-in-law of the petitioner. On the complaint of the petitioner on 08.04.2016, for occurrence, which was said to have taken place on 06.01.2016, FIR was registered. Thereafter, on conclusion of the investigation, charge sheet was



made ready on 20.08.20018 and now, taken on file in C.C.No.127 of 2017 pending trial. Further, his contention is that there are only five witnesses in this case. LW1 is the defacto complainant father-in-law, LW2 is the eye witness, LW3 is another eye witness, who is the wife of LW1, LW4 is the mahazer witness and LW5 is the Investigating Officer (I.O). He further submits that LW2 eye witness and LW4 mahazer witnesses have given 164 statement before the Judicial Magistrate No.1, Chengalpattu and their 164 statement is contrary to the 161 statement. Further, they admitted in the 164 statement that they were not present in the scene of occurrence. This being the case, proceedings against the petitioner is unwarranted. Further, similar to it, the second respondent lodged a complaint on similar ground for the occurrence, which was said to have been taken place during the year 2014 and a case in C.C.No.152 of 2015 registered. The petitioner was a single accused there. The 2nd respondent is the defacto complainant PW1 in that case. The trial Court, on considering the evidence, found that it is a motivated complaint and the petitioner was acquitted, if the complaint is also similar in nature. He further submitted that the petitioner's wife filed a Civil Suit in O.S.No.24 of 2017 before the Additional Subordinate Court, Chengalpattu and the Additional Subordinate Court, by its judgment dated 24.01.2017 ordered the petitioner to be evicted and now, the 2nd respondent is living elsewhere.

3.Mr.A.Damodaran, the learned Additional Public Prosecutor submitted that on the complaint of the defacto complainant, who is a senior citizen and retired Army person, FIR was registered. The accused in this case is non other than his son-in-law. The property was settled by the defacto complainant in favour of his daughter. Now, his son-in-law and daughter joined together put up a construction and now, chased away the defacto complainant. Further, the defacto complainant's valuable articles were damaged and now, he is attempted to be chased away. The defacto complainant gave a complaint under Senior Citizens Act and the Civil Suit is also pending. As far as this case is concerned, on registration of the FIR, the respondent police visited the scene of occurrence, prepared observation mahazer, rought sketch, examined the witnesses presence in the scene of occurrence, statement of LW1 to LW4 recorded, charge sheet was filed listing LW1 to LW5 along with the documents. The points raised by the petitioner as factual in nature, it has to be decided in trial.

4.The learned counsel for second respondent /defacto complainant submits that the property was settled by way of a



settlement deed in favour of his daughter. The petitioner being his son-in-law, now, taking advantage of old age and the defacto complainant was physically harmed and chased away from the property. Not only that a criminal complaint under Section 138 of the Negotiable Instruments Act as has been filed in C.C.No.9387 of 2014 before the Metropolitan Magistrate (Fast Track - 2) Egmore at Allikulam, Chennai-3 and that, the defacto complainant is being harassed.

5. This Court finds the points raised by the petitioner are factual in nature, it is to be decided during the trial and the petitioner and the defacto complainant are none other than the father-in-law and son-in-law. In view of the same, this Criminal Original Petition is dismissed. Finding that the case is pending from the year 2017 without any progress and the trial Court is directed to conclude the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

jd/sms

To

1. The Judicial Magistrate-I, Chengalpattu.

2. Do Thro The Chief Judicial Magistrate,  
Chengalpattu.

3. The Inspector of Police,  
Thazhambur Police Station,  
Chennai 600 130.

4. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.G.P.Kothandaraman, Advocate SR.No.12996

Cr1.O.P.No.18057 of 2017  
and  
Cr1.M.P.Nos.11009, 11010 of 2017

GJ(CO)  
GN(15/03/2022)