

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 23.06.2022	Date of Pronouncing Order 04.07.2022
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.OP.No.23472 of 2018
and
CrI.MP.No.13172 of 2018

- 1.Revathy (aged 30 years)
W/o.Manimaran,
'A' Block, G2, Ground Floor,
Natarajan Street,
Dhanalakshmi Colony, Chennai 26.
- 2.Manimaran, (aged 35 years)
S/o.Late.Kalidoss,
'A' Block, G2, Ground Floor,
Natarajan Street,
Dhanalakshmi Colony, Chennai 26.
- 3.Manimegalai (aged 36 years)
W/o.Gopala Subramanian
'A' Block, G2, Ground Floor,
Natarajan Street,
Dhanalakshmi Colony, Chennai 26.
- 4.Meena (aged 62 years)
W/o.Late.Kalidoss
'A' Block, G2, Ground Floor,
Natarajan Street,
Dhanalakshmi Colony, Chennai 26.

... Petitioners

Vs.

- 1.S.Gayathri (aged 36 years)
W/o.Suresh,
'C' Block, G8, Natarajan Street,
Dhanalakshmi Colony,
Chennai 26.
- 2.The State through Inspector of Police,
W27, All Women Police Station,
Vadapalani, Chennai 26.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records in Crime No.15 of 2018 on the file of the State through Inspector of Police, W27, All Women Police Station, Vadapalani, Chennai 26 and quash the same.

For Petitioners : Ms.Thenmozhi Shiva Perumal

For Respondents : Mr.P.Kalimuthu (for R1)

Mr.C.E.Prathap (for R2)
Government Advocate (Crl. Side)

O R D E R

The Petitioners have filed this Criminal Original Petition against Crime No.15 of 2018 on the file of W-27, All Women Police Station, Vadapalani, Chennai 26.

2.The case of the Petitioners is that the Defacto Complainant and the Petitioners are residing in the very same Apartment. The 1st Petitioner is the wife of the 2nd Petitioner and the 3rd and 4th Petitioners are her sister in law and mother in law. The 3 Petitioner is residing at Singapore who came to India in the month of August 2018. The Petitioners are living in an Apartment, in the very same apartment there is a 'C' block, wherein the de-facto complainant Gayathri, aged 36 years and her husband Suresh are residing along with their children. The eldest daughter of them is a female child viz., Mahita Thanvi aged about 9 years and another daughter name is Negashriya aged 4 years. Both the children minor Mahitha Thanvi and minor Sashimitha are friends and used to play in the apartment. Thereafter, there was fight between the children, which leads to wordy quarrel between both their families.

3.Due to misunderstanding between the family members and because of the quarrel between the children, the Petitioners stopped their child minor Sashmitha aged about 5 years to play with the minor Mahita Thanvi and that provoked Minor Mahita Thanvi, started troubling the Petitioners family by pressing the calling bell of the Petitioners flat, every now and then and ran away. Since the defacto complainant and her husband, both are employed they will return only in the evening. In their absence minor Mahita Thanvi after returning from the school used to do all sorts of nuisance in and around the flat. Since both the parents are employed, most of the time, they will be away from the home. The 4th Petitioner being a senior citizen, due to her old age is having various medical ailments, when she was fast asleep, the said minor Mahita Thanvi used to come and press the calling bell and ran away from scenery.

4.It is further avered by the Petitioners that the whenever the Petitioners get down from their flats, lot of waste papers will be showered on their head by the said minor Mahita Thanvi and the Petitioners warned the child and she started to put scratch mark on their Two wheeler. The Minor Mahita Thanvi used to pinch the minor child Sashmitha and ran away and as this was happened several times the Petitioners made a complaint to the defacto complainant about her mis-behavior. To the shock and surprise, both their parents abused the Petitioners by saying that they are country brut, village people, hailing from slum etc., and they are not qualified to live in that apartment. They also abused the 4th Petitioner by saying that old aged goose.

5.The 3rd Petitioner is residing at Singapore and her husband is a Singapore citizen, she came to the 4th Petitioner's house for taking medical treatment for begetting a child and when she was about to step down the stairs, lot of water was split on the stairs and when the Minor Mahita Thanvi was asked to maintain decent behaviour in the flat, the child called the Child Helpline and after explanation by the Petitioners, the Child Helpline people are also left. The Defacto Complainant lodged a complaint before the Respondent police and stated that the accused had pinched the child and caused simple injury. In the complaint, Defacto Complainant stated that the Petitioners used filthy language.

6.After perusing the complaint and also the connected documents, I find that the basic decency to be maintained by the two families appears to have been lost. The kid of the Defacto Complainant used to disturb family of the accused, by pressing the calling bell now and then, especially, when the 3rd Petitioner has come for taking medical treatment for begetting a child. It appears that when the Petitioners have questioned the abnormal behaviour of the child, disturbing and causing nuisance, she was allowed to do so, without any control and the said incident appears to have been inflated as if the Petitioners have pinched the child and caused simple injury and also criminally intimidated her. I feel that kids play has been blown out of proportion to make it as criminal act.

7.After perusing the documents, it appears that the Police have not applied their mind into the petty quarrel between the two neighbour's families in the apartment and registered this complaint. Though initially stay was granted, it appears that on 28.02.2022, the Court has directed the Respondent police to continue with the investigation. It was reported that charge sheet was filed on 27.05.2022 and the same was taken on file as C.C.No.1335 of 2022 by the learned XXIII Metropolitan Magistrate, Chennai.

8.I find that a civil dispute, which has been given criminal colour due to the intolerance between the two neighbours in the same flat has resulted this Criminal Original Petition and the petty mis-behaviour by the kids has been blown out of proportion and hence. The complainant has not conducted herself in a more civilised manner, calling upon the other person to face a criminal prosecution is nothing but converting civil nature into criminality. The same is impermissible. Accordingly, I find that continuation of trial is abuse of process of law.

9.In view of the matter, this Criminal Original Petition is allowed and C.C.No.1335 of 2022 on the file of the learned XXIII Metropolitan Magistrate, Chennai in Crime No.15 of 2018 on the file of the State through Inspector of Police, W27, All Women Police Station, Vadapalani, Chennai 26 is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The XXIII Metropolitan Magistrate,
Chennai.
- 2.The Inspector of Police,
W27, All Women Police Station,
Vadapalani, Chennai 26.
- 3.The Public Prosecutor,
High Court,
Chennai 600 104.

+1cc to M/s.R.Thenmozhi Shivaperumal, Advocate SR. No. 42602

Crl.OP.No.23472 of 2018
and
Crl.MP.No.13172 of 2018

PL (CO)
PR (27/07/2022)