



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.19317 of 2018

and

Crl.MP(MD)Nos.8710 and 8711 of 2018

WEB COPY

1.Nagananthan
2.Karunanithi
3.Sathiyathan
4.Muneeswaran

: Petitioners/Accused Nos.1 to 4

Vs.

1.The State,
Rep. By the Inspector of Police,
Salaigramam Police Station,
Sivagangai District.
(Crime No.80 of 2017)

: Respondent No.1/Complainant

2.Raman

: Respondent No.2/
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in SC No.13 of 2018 on the file of the District and Sessions Court, Sivagangai and quash the same.

For Petitioners : Mr.S.Mahendrapathy

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

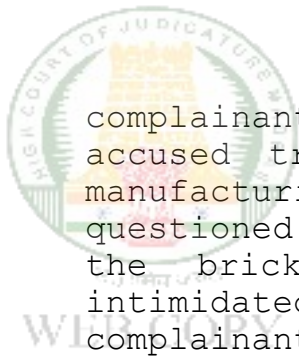
For 2nd Respondent : Mr.B.Prahalad Ravi

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of SC No.13 of 2018 on the file of the District and Sessions Court, Sivagangai.

2.The case of the prosecution in brief:-

The de-facto complainant and the first accused belongs to the very same village and due to previous enmity with regard to the bricklin, on 25/06/2017 at about 6.00 pm, when the de-facto



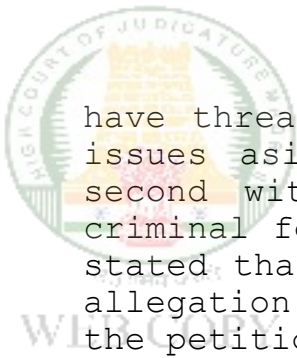
complainant and others were covering the bricks with tarpaulin, the accused trespassed into the property and caused damage to the manufacturing unit, pushed down the 2nd witness. When that was questioned by the de-facto complainant, again they caused damage to the bricks, abused in filthy language and also criminally intimidated them. Based upon the complaint given by the de-facto complainant, a case in Crime No.447 of 2018 for the offences under sections 447, 294(b), 323, 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and section 3 of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, has been registered. During the course of investigation, materials have been collected and the statements of witnesses have been recorded and final report has been filed against all the accused persons stating that they have committed the offences punishable under sections 447, 294(b), 323, 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

3. Seeking quashment of the same, all the accused persons, who are arrayed as A1 to A4 have preferred this petition. During the course of argument, it was submitted that the 4th petitioner is reported to be dead and the charge against him is automatically abated. Now the accused 1 to 3 are facing the charges.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would submit that on the previous occasion, the first petitioner sent a complaint against the father of the 2nd respondent stating that he involved in sand mining activities illegally, over which a fine was also imposed upon him by the Revenue Divisional Officer, Sivagangai and the 2nd respondent is also created documents for claiming old age pension. When the fine amount was not paid by the father of the 2nd respondent, the land was attached by the Revenue Officials. In spite of that, they were using the land illegally for manufacturing bricks. When that was questioned, a false complaint has been given.

6. Absolutely, the ground on which this petition came to be filed is a factual issue. Even though it has been stated that in respect of the property over which, the de-facto complainant claimed title, which has been attached by the Revenue Divisional Officer, due to non-payment of the fine amount. But this fact cannot be taken into account at this stage. Even though the de-facto complainant and others were using the property against the attachment order, it is for the revenue authorities to take appropriate action. Unless the petitioners are not concerned for the above said activity, though action has been initiated on the basis of the complaint given by the first petitioner, that will not give any right to the petitioners to enter into the property of the de-facto complainant. when the de-facto complainant questioned, they



have threatened and caused damage. Even though, we leave all other issues aside, there is a specific allegation to the effect that second witness was pushed down. This will amount to using the criminal force upon the second witness. Apart from that, it is also stated that they caused damage to the bricklin. So when a specific allegation has been made, unless a strong case has been made out by the petitioners, final report cannot be quashed.

7.The other contention of the petitioners that the 2nd respondent has obtained pension amount by forging the documents, cannot be matter for consideration in this petition and the character and conduct of the 2nd respondent can be challenged only during the course of trial.

8.As mentioned earlier, it is absolutely a factual issue as to whether the occurrence as stated by the de-facto complainant took place or not. Even on the ground of mala fide nature of the allegation, the factual aspect cannot be gone into. When we peruse observation mahazar, we find that during the course of investigation, police has recovered the damaged bricks from the place of occurrence. So prima facie materials have been collected during the course of investigation. So I am of the considered view that the petitioners must undergo the trial process and the trial must be undertaken to its logical conclusion.

9.I find absolutely, no merit in this petition and accordingly, it is liable to be dismissed.

10.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District and Sessions Judge,Sivagangai

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.19317 of 2018
15/03/2022

MGJ(30.03.2022) 4P 3C