



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.19173 of 2021

1.Natarajan
2.Prabhakaran

... Petitioners /
Accused Nos.1 & 2

vs.

1.The State, rep.by
The Inspector of Police,
Chinnadharapuram Police Station,
Karur District.
(Crime No.268 of 2021)

...1st Respondent/Complainant

2.Markandan

...2nd respondent/
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.PC, to call for the entire records relating to the Proceedings in Crime No.268 of 2021 dated:04.07.2021 on the file of the first respondent police and quash the same insofar as the petitioner in concerned.

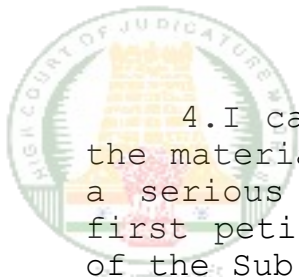
For Petitioners	: Mr.S.Parthasarathy
For Respondents	: Mr.E.Antony Sahaya Prabahar
	Addl.Public Prosecutor for R1
	Mr.AN.Ramanathan for R2

ORDER

Heard the learned counsel on either side.

2.The case of the defacto complainant is that when he was fencing the property on 22.11.2021, the petitioner herein interfered with the fencing work, damaged and stole the fencing, measuring a length of almost 430 feet. Hence, the impugned FIR under Section 379 of IPC was registered. To quash the same, this criminal original petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned FIR. Per contra, the learned Additional Public Prosecutor as well as the counsel for the defacto complainant submitted that no case for quashing has been made out. According to them, specific overt acts have been attributed to the petitioners.



4.I carefully considered the rival contentions and went through the materials on record. It is seen that the parties are locked in a serious civil litigation. One Jeyabharathi/the sister of the first petitioner Natarajan had filed O.S No.53 of 2007 on the file of the Sub Court, Karur. The plaint was rejected. Challenging the same, she filed A.S No.11 of 2009 before the District Judge, Karur. The first appellate court reversed the decision of the trial Court and held that the suit will have to be decided on merits. Challenging the same, Chidambaram/the father filed SA(MD)No.860 of 2010 before this Court. During the pendency of the second appeal, Chidambaram had sold the property in question to one Lenin from whom the defacto complainant had purchased vide sale deed dated 06.04.2011. The defacto complainant also got himself impleaded in the second appeal. I find considerable force in the contention of the petitioner's counsel that the parties are locked in a bitter civil litigation and the impugned FIR has been registered to wreak vengeance. This attracts the parameters set out in Bhajan Lal's case. The learned counsel for the petitioner submitted that what was purchased by the defacto complainant is comprised in Survey Nos.431/B and 432/B. But the FIR speaks about Survey No.431/A and 432A. Therefore, the property purchased by the complainant appears to be different from the one set out in the FIR.

5.Since I had formed a conclusion that the very filing of the impugned FIR is a direct fall out of the civil litigation pending between the parties, I am led to conclude that Crime No.269 of 2021 lodged against the defacto complainant at the instance of the first petitioner is also vitiated by the same vice. Therefore, I suggested to the petitioners' counsel that both the FIRs will have to be quashed. The counsel for the petitioners has no objection for quashing the same. Therefore, the FIRs in Crime No.268 of 2021 and 269 of 2021 on the file of the first respondent are quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

skm

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.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Inspector of Police,
Chinnadharapuram Police Station,
Karur District.

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

+1 CC to M/s.S.PARTHASARATHY, Advocate (SR-3595[F]
dated 02/02/2022)

CrI.O.P. (MD) No.19173 of 2021
01.02.2022

RJ(CO)
GC(28.02.2022) 3P 4C