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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP (MD) No.18471 of 2019

and

Cr1.MP (MD) No.10845 of 2019

1.V.Ramachandran
2.K.Muniyandi
3.M.Pandikumar
4.R.Selvaraj
5.A.Ayanar
6.P.Vengipandi
7.Vengaian
8.S.Kannan
9.V.Thangapandi
10.C.Periyakaruppan
11.A.Nagaraj
12.M.Rasu
13.R.Sudha
14.K.Roja
15.V.Uma

: Petitioners/A1 to A15

Vs.

1.State represented by
Inspector of Police,
Alinagaram Police Station,
Theni District.

(Crime No.565 of 2019)

: R1/Complainant

2.V.Subbiah

: R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the case in Crime No.565 of 2019 on the file of the 1st respondent and quash the same.



For Petitioners : Mr.C.M.Arumugam
For 1st Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)
For 2nd Respondent : Mr.N.S.Karthikeyan

O R D E R

The petition has been filed seeking quashment of the case in CC No.565 of 2019 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The second respondent has lodged a complaint with the following allegations:- He is the President of Allinagaram Deventhira Kula Uravinmurai Association. The said Association owns 25 shops and two houses. The rent was utilizing for the purpose of improving the Association. One Ramachandran occupied a shop and refused to pay the rent. So, on 15/11/2019 at about 10.30 am, the de-facto complainant and other members of the Association went to the shop and demanded payment of rent or vacate the shop. At that time, all the accused persons joined, armed with deadly weapons and tried to assault them. They also lodged a false complaint as if the de-



3. Seeking quashment of the same, this petition has been filed by the petitioners stating that the de-facto complainant party are the real aggressors and section 145 Cr.P.C proceedings were also initiated in respect of the issue.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would submit that the de-facto complainant is the aggressor even on the reading of the complaint. So according to him, only the de-facto complainant party came to the first accused shop and demanded to vacate the shop and house, over which, the above said issue has arisen. So according to him, when the de-facto complainant party themselves are the aggressors,



continuation of the criminal proceedings against the petitioners will amount to abuse of process of court. He would further submit that a complaint has been given against the de-facto complainant and his party and in this regard, a case in Crime No.562 of 2019 was registered for the offences punishable under sections 147, 148, 294(b), 379 and 506(ii) IPC. Only as a counter blast to the above said complaint, this case has been registered. So on that ground only, interim stay was granted for filing of final report alone. The FIR in Crime No.562 of 2019 shows that the date of occurrence stated to be on 15/11/2019 at about 10.30 am. In this case also, the occurrence said to have taken place on 15/11/2019 at about 10.00. am. So, reading of the both FIRs shows that it is a case and counter and the dispute has arisen with regard to the vacation of the shops, which belongs to the de-facto complainant party.

6.Further perusal of the records shows that in respect of the issue between the parties, 144 Cr.P.C proceedings were also initiated by the Revenue Divisional Officer, Allinagaram, Theni District. That was challenged by these petitioners in Cr1.RC(MD) No.29 of 2019. That



was allowed, on 27/09/2019 in view of pendency of O.S No. 136 of 2017 before the concerned civil court. So these proceedings shows that there is continuous trouble between two groups of people.

7.It is the further contention on the part of the petitioners that there was no rental agreement between the de-facto complainant and the first petitioner. Since already section 145 Cr.P.C proceedings have been initiated and that was also quashed by this court, this crime has also been registered without proper verification of the facts.

8.The learned counsel appearing for the second respondent would submit that the petitioners are the habitual offenders and they are also facing criminal proceedings for kidnapping a person demanding ransom. According to him, such persons are not entitled for any relief from this court.

9.Now whatever it may be, the factual issues and the antecedents of the petitioners, from the facts narrated above, it is seen that continuous trouble exists



between two groups over the shop. So, quashment of the one complaint may not be proper. Who are the aggressors is a matter for investigation. If the final report is filed in this case, it is for the trial court to decide the matter. So, this is not a fittest case to exercise the jurisdiction of the court under section 482 Cr.P.C.

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

29/04/2022

Index:Yes/No
Internet:Yes/No
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1. The Inspector of Police,
Alinagaram Police Station,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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G.ILANGOVAN, J

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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.

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