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Crl.O.P.No.4833 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.4833 of 2022

1.Abdul Kalam Azad

2.Viji

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
Neelankarai Police Station,
Chennai.

2.The Assistant Commissioner of Police,
Neelankarai,
Neelankarai Police Station,
Chennai.

3.Abdul Ajeesh

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for records and to quash the FIR in Crime No.746 of 2021 dated
20.10.2021 on the file of the 1st Respondent.

For Petitioners : Mr.Prakash Goklaney

For R1 and R2 : Mr.A.Gopinath
Government Advocate (Crl. Side)

For R3 : Mr.G.Parthasarathy



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No.746 of 2021 dated 20.10.2021 on the file of the 1st Respondent.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The crux of the allegation is that the third respondent is the owner of the property comprised in S.No.1/78, A.P.M.S 1st street, Chinnadikuppam main road, Vettuvankeni. The third respondent assigned one Abdul Kalam Azad to look after the property and to develop the same. On the southern side of the property abutting the private passage is the third respondent's property. While being so, on 20.01.2021, the petitioners damaged the compound wall. Therefore, the third respondent lodged a complaint and he was issued C.S.R.No.24 of 2021. Once again, on 01.10.2021, the accused came to the house plot of the third respondent and started construction of a compound wall. When it was questioned by the third respondent, the petitioners abused the third respondent in filthy language and threatened him with dire consequences. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in



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Crime No.746 of 2021 for the offences punishable under Sections 447, 506(1) and 294(b) of IPC.

5. A perusal of the complaint revealed that it was lodged on 20.10.2021 for the occurrence which took place on 01.10.2021. That apart, there is a civil dispute between the petitioners and the third respondent. The third respondent filed a suit in O.S.No.1009 of 2021, on the file of the Sub Court, Alandhur, Chennai, in respect of the very same property and sought for declaration and mandatory injunction. The Civil Court ordered status quo to be maintained by the parties. The suit was filed after the alleged occurrence. That apart, all the allegations are trivial in nature and no prima facie case is made out to constitute the offences under Sections 447, 506(1) and 294(b) of IPC.

6. Therefore, the present FIR is nothing but a clear abuse of process of law and the complaint was lodged only to wreck vengeance as against the accused.

7. It is relevant to extract the judgement reported in **(1992) SCC Crl. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme



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Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. In view of the above, the impugned FIR in Crime No.746 of 2021 dated 20.10.2021 on the file of the 1st Respondent cannot be sustained as against the petitioners and it is liable to be quashed. Accordingly, the FIR in Crime No.746 of 2021 dated 20.10.2021 on the file of the 1st Respondent, is hereby quashed. This Criminal Original Petition is allowed.

01.12.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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To

- 1.The Inspector of Police,
Neelankarai Police Station,
Chennai.
- 2.The Assistant Commissioner of Police,
Neelankarai,
Neelankarai Police Station,
Chennai.
- 3.The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

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