



Crl.O.P.No.9271 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.04.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.9271 of 2023
and
Crl.M.P.Nos.5973 and 5975 of 2023

1. M.Saraswathy
2. Dr.Archana

...Petitioners

Vs.

1. State represented by
The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai-600 118.

2. Latha

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the final report in CC.No. 624 of 2023 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai against the petitioners herein.

For Petitioners : Mr.R.Abdul Mubeen

For Respondents

R1 : Mr.S.Santhosh

Government Advocate (Crl.side)



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ORDER

WEB COPY This Criminal Original Petition has been filed calling for the records and quash the final report in CC.No.624 of 2023 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai against the petitioners herein.

2. It is the submission of the learned counsel for the petitioners that the petitioners had constructed a compound wall in their own land. However, a false complaint was given by the second respondent alleging that the petitioners had damaged her compound wall and made some other allegations. It is his further submission that the first petitioner filed a suit in O.S.No.5139 of 2022, on the file of the learned XXIV Assistant Judge, City Civil Court, Chennai for the relief of permanent injunction. In the said suit, the first petitioner filed an application in I.A.No.2 of 2022 in O.S.No.5139 of 2022 for temporary injunction. The learned XXIV Assistant Judge, City Civil Court, Chennai allowed the petition. It shows that the petitioner has *prima facie* title and possession in respect of the property. There is also a delay in registration of FIR. Thus, he prayed for quashment of the proceedings.



3. The learned Government Advocate (Crl.Side) submitted that the complaint allegations show that the defacto complainant purchased a land in the year 1994 and then constructed a building along with a compound wall. It is alleged in the FIR that the compound wall constructed by the defacto complainant was demolished by the accused and the accused also made a criminal intimidation. The investigation in this case also confirms the FIR allegations. Eye witness account corroborates the account of the defacto complainant. There are materials available for proceeding further with the trial of the case. Thus, he prayed for dismissal of this petition.

4. Heard the rival submissions and perused the records.

5. A perusal of the FIR allegations show that the defacto complainant purchased a land in the year 1994 and in the year 1995, she constructed a house with a compound wall after obtaining permission from CMDA. She is living there along with her family members for the past 30 years. The first petitioner purchased the land near the defacto complainant's house and made efforts for laying bore Well. On 13.07.2022, at about 09.00 a.m, the defacto complainant went to a



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marriage function and came back at 01.00 p.m. On arrival, she found that the compound wall of her house was demolished. When she enquired, she was informed by the persons nearby that the petitioners, with the help of workers, had damaged the compound wall. As a result, the pillars of her house were also damaged. When she enquired with the first petitioner about the demolition of compound wall and damage of pillars, the first petitioner told the defacto complainant that her son-in-law is an angry man and if he comes to know about this enquiry, he would murder them. In these circumstances, based on her complaint, FIR in Crime No.620 of 2022 for the offences under Sections 427 and 447 of IPC was registered. After investigation, final report was filed.

6. It is seen from the statement of the defacto complainant that she had reiterated the complaint allegations. To speak about the incident of demolition of compound wall, witnesses Gopal, Sivaprakasam, Noorulla and Karuppaiah had been examined and their statements were recorded. They said in their statements that the petitioners had demolished the compound wall of the defacto complainant's house with the help of workmen. Therefore, it is clear from the material produced in this case and there are enough materials available for



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proceeding further with the case against the petitioners.

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7. The submission of the learned counsel for the petitioners is that there is a delay of seven days in giving complaint. It is not the ground for the quashment of the proceeding. Of course, it is open to the petitioners to take up the issue of delay in giving the complaint during the course of Trial. With regard to another submission of the learned counsel for the petitioners that the learned XXIV Assistant Judge, City Civil Court, Chennai in I.A.No.2 of 2022 in O.S.No.5139 of 2022 granted interim injunction in favour of the first petitioner, this Court on going through the records found that there is no finding recorded by the learned XXIV Assistant Judge, City Civil Court, Chennai with regard to the rival claim on the ownership of the compound wall, which was demolished. The learned XXIV Assistant Judge, City Civil Court, Chennai also observed that if the compound wall was illegally demolished by the first petitioner, the second respondent has every right to initiate counter claim for damages against the first petitioner. This finding gives a message that the possibility of illegally demolishing the compound wall by the accused cannot be ruled out.



8. Thus, this Court is of the view that the accused must be tried for the offences mentioned in the final report. There is no merits in the claim for quashing the proceedings. The X Metropolitan Magistrate Court, Egmore, Chennai is directed to dispose of the case as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order, without being influenced by the observations made by this Court in this order.

9. Finally, it is submitted by the learned counsel for the petitioner that the second petitioner is a Doctor, who is studying and she has exams. Therefore, the personal appearance of the second petitioner is dispensed with before the Trial Court, subject to the condition that the second petitioner has to file an affidavit before the learned X Metropolitan Magistrate Court, Egmore, Chennai that she would not dispute her identity and her Advocate would regularly appear before the Court on her behalf, without fail for the smooth conduct of the Trial. The second petitioner should appear before the Concerned Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of pronouncing judgment. During other hearing dates, she must ensure that her Advocate appears on her behalf for the smooth and uninterrupted conduct of the Trial.



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10. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

27.04.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The X Metropolitan Magistrate Court, Egmore, Chennai.
2. The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai-600 118.
3. The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN.J.,

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