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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.19099 of 2021
and Crl.MP.Nos.10446 and 10447 of 2021

1.K.P.Sankar (M/A-50 Y)
S/o.Parasuram

.. 1st Petitioner/Accused

2.K.P.Chokalingam, (M/47 Y)
S/o.Parasuram

..2nd Petitioner/Accused

VS.

T.Suresh
S/o.late R.Thanikachalam

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.331 of 2021, on the file of the learned Judicial Magistrate-I, Tiruvallur and quash the same.

**(Amended as per order dated 31.8.2023
in Crl.MP.No.10553 of 2023 in Crl.OP.No.19099 of 2021)**

For Petitioners : Mr.N.R.Elango
Senior Counsel
for Mrs.Aruna Elango

For Respondent : No appearance



ORDER

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This criminal petition had been filed to quash the private complaint by the respondent pending in C.C.No.331 of 2021, on the file of the Judicial Magistrate, Tiruvallur.

2.The respondent has filed a private complaint on the ground that he is the absolute owner of the property situated at Survey No.94/1-2A, near Ennore Village measuring an extent of 900 sq.ft. According to the respondent, he started constructing a shed by employing casual labourers and at that point of time, the petitioners and others came to the spot and demanded for mamool of a sum of Rs.50,000/- and the respondent refused to part with any money. Once again on 22.10.2020, the respondent got a call from his mother and the respondent was informed that more than 20 persons, who were engaged by the petitioners had barged into the property and are demolishing the shed that is put up in the property. When the same was questioned, they also abused and threatened the labourers. Thereby, the respondent suffered damaged to the tune of Rs.1,25,000/-.

3.The further case of the respondent is that complaints were given to the police and no action was taken and hence, the private complaint has been filed before the Court.

4.The Court below has take cognizance of the private complaint for offence

u/s.147,148,120(b),294(b),447,427 and 506(ii) IPC.



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5. Heard Mr.N.R.Elango, learned Senior Counsel for the petitioners.

6.The complaint that has been given by the respondent is completely bereft of details. The complaint has been given as against two named accused persons and whereas the offence that is sought to be projected is u/s.147 and 148. In the complaint, it is not stated as to when the petitioners had come to the scene of crime and at what time the incident had taken place.

7.Insofar as the offence u/s.205(b), 294(b), 506(i), 506(ii) IPC is concerned even if the allegations are taken as it is, no offence has been made out.

8.A reading of the entire complaint shows that there is a civil dispute and the respondent has also filed a suit before the District Munsif Court, Thiruvottiyur in O.S.No.44 of 2020, and the same is pending. The Court below did not apply its mind while taking cognizance on the complaint since a reading of the complaint, as such does not make out any such offence against the petitioners. Some general allegations made in the complaint cannot be a ground for taking cognizance of the complaint without the allegations making out an offence.

9.In the light of the above discussion, the continuation of the proceedings before the Court below as against the accused persons will result in an abuse of process of Court which requires the interference of this Court u/s. 482 of Cr.PC.



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Accordingly, the proceedings in C.C.No.331 of 2021, pending on the file of the Judicial Magistrate-I , Tiruvallur is hereby quashed.

10. In the result this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

31.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To
The Judicial Magistrate-I,
Tiruvallur.



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