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Crl.O.P.No.24703 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24703 of 2023

and

Crl.M.P. Nos.17191 &17192 of 2023

1.Mrs.V.Shanthi

2.Mr.M.Veeraraghavan

... Petitioners

-VS-

1.The State by
Inspector of Police,
R9-Valasaravakkam Police Station,
Chennai – 600 086.

2.Mr.M.A.Panchatcharam

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.146 of 2019 on the file of the Judicial Magistrate -1, Poonamallee and quash the same.

For Petitioners : Ms.A.Sumathy

For Respondent 1 : Mr.S.Udayakumar,
Government Advocate (Crl.Side)

**ORDER**

The petition is filed to quash the criminal case in C.C. No.146 of 2019 on the file of the Judicial Magistrate -1, Poonamallee for offence under Sections 448 & 506(1) of IPC.

2. The learned counsel for the petitioners primarily contended that it is a civil dispute between the land owner and builder who entered into joint venture agreement in the year 2007 and on completion of the project, there was dispute regarding the non-fulfillment of the terms of joint venture agreement and suits were filed and reached finality. Having lost the suit, the defacto complainant alleging that the portion of the property which is sold to his son been prevented from lawful enjoyment by these petitioners and been criminally intimidated by them, hence, given a police complaint and also simultaneously initiated private complaint for the very same set of facts.

3. While, his private complaint taken on file in C.C. No.55 of 2015 by the learned Judicial Magistrate No.1, Poonamallee was quashed by this Court in Crl.O.P. No.28010 of 2015 vide order dated 14.12.2021 for the very same set of facts, there cannot be a case on police report, when this Court has arrived at a conclusion that it is a civil dispute given criminal colour and the said finding reached finality.



4. The learned Government Advocate (Crl.Side) submitted that the private complaint was lodged alleging offences under Sections 441, 442, 445, 447, 448, 452, 461 and 462 of IPC, wherein based on the sworn statement of the witnesses and other records pertaining to the civil dispute was considered by this Court and quashed the same. Meanwhile, the FIR registered by the respondent police was investigated and after recording the statement of witnesses and other evidences, it was found that the petitioners herein had trespassed into the portion of the building sold to the son of the defacto complainant and criminally intimidated him. The final report was filed on 27.06.2019 informing about the private complaint also. The trial Court has taken cognizance of the offence and taken the case on file and numbered as C.C. No.146 of 2019. The material collected shows how the case to take cognizance for offence under Sections 448 and 506(2) of IPC and therefore, the complaint taken on file and final report of the police has to reach its logical end after trial and cannot be quashed.

5. This Court after going through the statements of the witnesses relied by the prosecution finds that as per the joint venture agreement, the defacto complainant has commenced the construction and one of the portion been sold to his son. As per the joint venture, on completion of construction, the builder



is entitled for 40% of the building and land owner 60%. The dispute is regarding the sale of the property by the builder disproportionate to his entitlement. In any event, this is a matter for Civil Court which has already seized of the matter and given their findings.

6. This complaint which is the subject matter of the petitioner is in respect of the incident which has alleged to have occurred on 30.05.2014. The material indicates that on that day, these petitioners have intimidated the occupant of the portion which does not belong to them. Hence, the guilt or innocence has to be decided after examination of witnesses. A pre-trial conclusion regarding the genuineness of the complaint and investigation report cannot be arrived at.

7. With the above observation, the petition to quash is dismissed. The trial Court taking note of the fact that the matter is pending for more than four years, shall give priority to the speedy disposal of the case. Connected Miscellaneous Petitions are also dismissed.

08.11.2023

Internet : Yes/No
Index : Yes/No
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To

1. The Judicial Magistrate -1, Poonamallee.

2. The Inspector of Police,
R9-Valasaravakkam Police Station,
Chennai – 600 086.

3. The Public Prosecutor,
Madras High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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