



Crl.O.P.No.5 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HON'BLE Mr.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5 of 2023

and

Crl.M.P.No.5 of 2023

- 1.Suresh
- 2.Krishnamurthy
- 3.Ilayaraja

... Petitioners

-Vs.-

- 1.The Sub Inspector of Police,
Mel Chengam Police Station,
Mel Chengam,
Chengam Taluk,
Tiruvannamalai District.

- 2.Priya

.. Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.104 of 2022 on the file of the Judicial Magistrate Court, Chengam, and quash the same.

For Petitioner :Mr.R.Rajarajan

For Respondents :Mr.S.Santhosh,
Government Advocate (Criminal side)
for R1



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ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.104 of 2022 on the file of the Judicial Magistrate Court, Chengam, and quash the same.

2. The learned counsel for the petitioner submitted that even as per the allegations in FIR, there is a long time dispute between the petitioner and *de facto* complainant and others in connection with a landed property. In this regard, the second petitioner, Krishnamurthy, filed a suit in O.S.No.304 of 1996 for the relief of specific performance on the file of the learned Principal District Munsif cum Judicial Magistrate, Chengalpattu. The said suit was decreed and the same was taken on appeal and has attained its finality before the Hon'ble Supreme Court in favour of Krishnamurthy. Thereafter, the second petitioner/Krishnamurthy filed Crl.O.P.No.28370 of 2018 and Crl.O.P.No.18443 of 2019 for seeking police protection for fencing his property. Crl.O.P.No.18443 of 2019 was allowed giving direction to the police to provide police protection to the petitioner for enabling him to



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fence his property, which is the subject matter of E.P.No.118 of 2007.

Thereafter, the second petitioner has fenced the property as seen from the rough sketch filed along with the final report. Even thereafter, the *de facto* complainant and her family members are not allowing the petitioners to enjoy the property and picking up unnecessary quarrel with the petitioners. This case is a false case given only with a view to harass the petitioners. The allegations made in the complaint and the final report are not true. The material object/iron rod, which is said to have been used for commission of offence, was not recovered by the respondent police. Therefore, the learned counsel for the petitioners prayed for quashing the criminal case against the petitioners in C.C.No.104 of 2022.

3. In response, the learned Government Advocate (Criminal side) opposes this petition on the ground that during the course of investigation, it comes to the light that due to civil dispute the incident has happened. In the said incident, the *de facto* complainant and others were attacked and they got treatment at Government Hospital. The medical records show that they suffer external injuries. Therefore, the



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case is made out against the petitioner for framing charges under Sections 294(b), 323, 324 and 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4. Considered the rival submissions made by the learned counsel for the petitioners and the learned Government Advocate (Criminal side) and perused the materials available on records.

5. A reading of FIR shows that there is dispute between the *de facto* complainant's family and second petitioner, Krishnamurthy's family for over 25 years in connection with land. It is also admitted that the issue was decided in favour of Krishnamurthy in the civil suit and Krishnamurthy fenced his property. That being the case, on 04.07.2020 at about 04.00 pm, when the *de facto* complainant was in her house for milking the cow, the accused had forcibly taken the cow. When it was questioned by the *de facto* complainant's sister/Subhashini, the accused/Suresh had hit Subhashini with iron rod on her right hand and right side of her stomach and when the *de facto* complainant and her



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husband intervene, the *de facto* complainant was get attacked and sustained injury on her forehead, her husband was also get attacked on forehead and they were suffered with bleeding injuries. Krishnamurthy and his son/Ilayaraja came there and Ilayaraja pulled the hair of the *de facto* complainant's sister/Ramya and pushed her down. When the *de facto* complainant's mother came there and questioned the accused, she was hit and attacked by Krishnamurthy, Ilayaraja and Suresh and they also said to have made death threat to the *de facto* complainant's family by showing the iron rod. Hence the *de facto* complainant lodged a complaint against the petitioners.

6. It is also made clear that on the basis of this complaint, the investigation was conducted and the witnesses, especially the injured witnesses, have given statements under Section 156(3) of CrPC reiterating and reaffirming the allegations in the complaint. The medical records, especially the accident register of Priya, Bharathi and Ramya, showed that they all suffered laceration injuries along with other injuries. Therefore, it cannot be said that there is no case made out against the petitioners.



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7. Though it is an admitted position of the parties that there was a civil dispute between them and the same ended in favour of Krishnamurthy, in the case before hand there is *prima facie* materials available to frame charges against the petitioners for the commission of offences under Sections 294(b), 323, 324 and 506(ii) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

8. In that view of the matter, this Court finds that there is no merits in the claim for quashing the proceedings against the petitioners in C.C.No.104 of 2022. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also closed.

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Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

nsa



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To

1.The Sub Inspector of Police,
Mel Chengam Police Station,
Mel Chengam,
Chengam Taluk,
Tiruvannamalai District.

2.The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN.J.,

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and Crl.M.P.No.5 of 2023

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