



Crl.O.P.No.34353 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.34353 of 2019 and
Crl.M.P.Nos.18999 and 19001 of 2019

1. Baskar
2. Thirunavukarasar
3. Sankar

... Petitioners / Accused

Vs.

1. State by
Sub-Inspector of Police (L & O),
K-4, Anna Nagar Police Station,
Chennai – 40.

2. J.Kaanikkai Nathan

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings in C.C.No.7104 of 2019 pending on the file of the learned V Metropolitan Magistrate, Egmore, Chennai against the petitioners.

For Petitioners : Mr.C.Muthu for
Mr.C.Padmanapan

For 1st Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

For 2nd Respondent : No appearance



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ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.7104 of 2019 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai.

2. The 2nd respondent / defacto complainant who is an advocate by profession has given a complaint against the petitioners/accused by alleging that there is an order of eviction passed in R.C.O.P.No.1309 of 2016 against his client viz., Immanuvel Vunaseelan who is the owner of the Bharath Scans at AB-1, 2nd Avenue, Anna Nagar, Chennai – 40. In this connection, on 12.02.2019 at about 4.00 p.m, the 2nd respondent went to Bharat Scans to vacate the premises. At that time, the 2nd petitioner who is the owner of the premises came along with his sons (petitioners 1 and 3) abused the second respondent in filthy language and assaulted him and threatened him that they would eliminate him within that night. Based on the above said complaint, a case has been registered in Crime No.119 of 2019 for the offences under Sections 341, 294(b), 323, 34 and 506(i) I.P.C., against the petitioners. After completing the investigation, charge sheet has been filed against the petitioners herein for the offence under Sections 341, 294(b),



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323, 34 and 506(i) I.P.C., Hence, the petitioners have filed this Criminal

Original petition to quash the said proceedings.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the 1st respondent.

4. The learned counsel for the petitioners submitted that the complaint itself is a false one. The 2nd petitioner is the landlord and the 2nd respondent's client Bharat Scans (P) Ltd., is a tenant. There is a dispute between the 2nd petitioner and the Bharat scans (P) Ltd., in respect of the tenancy and the tenant is liable to pay huge arrears of rent at some point of time. However, Bharat Scans (P) Ltd., is occupying the premises without paying the rental dues. In fact the staff members of Bharat Scans (P) Ltd, viz., Chamundeeswari, Ebinesan and others have damaged the properties of the 2nd petitioner at the instigation of Immanuvel Gunaseelan who is the owner of M/s.Bharat Scans (P) Ltd., on 18.02.2018 and in this regard, the 2nd petitioner has also given a complaint and the same was not registered. The complaint made by the 2nd respondent is an exaggerated version and there is



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no basis for the said complaint. Without making proper enquiry, the FIR has been registered against the petitioners with an ulterior motive and hence it is liable to be quashed.

5. The learned Government Advocate (Crl. Side) appearing for the 1st respondent submitted that the complaint given by the 2nd petitioner against the staff members of Bharat Scans was also registered in Crime No.919 of 2018 and the same is taken up for investigation. Only if a detailed investigation is done in both the cases, the real facts can come to light and it is premature to quash the criminal proceedings against the petitioners. Hence the petition should be dismissed.

6. On hearing both sides, it is clear that yet another complaint filed by the 2nd petitioner, has been registered in Crime No.919 of 2018 against the staff members of M/s.Bharat scans (P) Ltd., on the allegation that they have damaged the properties of the 2nd petitioner. Insofar as the present case is concerned, the 2nd respondent has given a clear statement that he was abused, assaulted and was threatened with dire consequences by the



petitioners. The eye witnesses have also given statements by corroborating the statement of the 2nd respondent. Hence, the petitioners and the 2nd respondent have made complaints against each other. Admittedly, there was a rent control proceedings pending between the 2nd petitioner and the client of the 2nd respondent in which an eviction order has been passed to evict the tenant of the 2nd petitioner by name M/s.Bharat Scans. The 2nd respondent who is the advocate of the 2nd petitioner's tenant was present at the time of carrying out eviction. Both parties who were at loggerheads could have caused some unrest or violence. But it cannot be known who was the aggressor and who had committed the crime. Since both parties throw counter allegations against each other and both of them claimed that they have got materials to substantiate their case, it is obligatory on the part of the first respondent to conduct investigation, simultaneously. But unfortunately, charge sheet has been filed in the present case only and in other case, the investigation is still pending. However, it is open to the petitioners to furnish the materials available with them at the time of trial. Only if the accused are subjected to trial, the criminal liability on the part of the accused can be known. Even though the charges have been framed, the



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examination of witnesses is not yet been commenced. By taking into consideration the fact, there is a case in counter, I feel it is appropriate for the trial Court to abstain from issuing summon to the witnesses only. Hence, it is appropriate for the petitioners to undergo the ordeal of trial.

7. With the above observation, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

13.02.2023

vum
Index:yes/No
Speaking order / Non speaking order

To

1. Sub-Inspector of Police (L & O),
K-4, Anna Nagar Police Station,
Chennai – 40.
2. The Metropolitan Magistrate V,
Egmore, Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

vum

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