



Crl.O.P(MD).No.2283 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.O.P(MD).No.2283 of 2021 and
Crl.M.P(MD).No.1155 of 2021

1.Sabeep @ Sabeer
2.Sulthan Khan
3.Kadhar Khar @ Mohamed

... Petitioners

-Vs-

1.State rep. by
The Inspector of Police,
Thallakulam Police Station,
Madurai City,
(Crime No.2592 of 2020)

2.Elankumaran

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in Crime No. 2592 of 2020, dated 29.12.2020 on the file of the Inspector of Police, Thallakulam Police Station, Madurai City, the first respondent herein and to quash the same as against the petitioners.

For Petitioner : Mr. P. Yasmin Begum

For Respondent No.1 : Mr. R.M. Anbunithi

Additional Public Prosecutor



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WEB COPY For respondent No.2 : Mr.R.J. Karthick

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 2592 of 2020, dated 29.12.2020, on the file of the Inspector of Police, Thallakulam Police Station, Madurai City as against the petitioners.

2. According to the petitioners, based on the complaint given by the second respondent, First Information Report has been registered as against the petitioners and others for the offences punishable under Sections 147, 148, 323, 324 and 506(ii) IPC.

3. The case of the prosecution is that the second respondent lodged a complaint stating that on 29.12.2020 at about 10.00 am, the first petitioner herein along with the Advocate Commissioner said to have entered into the property belongs to his wife viz., Visalakshi and at that time, he had objected the Advocate Commissioner by giving petition to him. Thereafter, they left the place of occurrence and then, the 1st petitioner



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along with the other named accused of this case said to have assaulted the defacto complainant and his advocate using stick, stones and string. At the instigation of the first petitioner, the other named accused of this case who are not at all relating to his property said to have attacked him and his men using deadly weapons and due to which, the second respondent / defacto complainant and his men and said to have injured and admitted in hospital. In fact, the defacto complainant along with other 12 persons assaulted the petitioners and others and thereby, the complaint was given and a case was registered in Crime No.2592 of 2020 and a counter case has also been registered against the 2nd respondent and others in Crime No.2593 of 2020. These petitioners have not participated in the occurrence and in fact they have already filed a suit in O.S.No.213 of 1973, on the file of the III Additional Subordinate Judge, Madurai for the relief of partition and separate possession. In that suit, a preliminary decree was passed in the year 1976. Thereafter, the case was transferred and re-numbered as O.S.No.1120 of 2006, on the file of the Additional District Munsif Court, Madurai. In the above said suit, an Advocate Commissioner was appointed to divide the properties based on the Court order, the Advocate Commissioner visited the property on 29.12.2020. On 29.12.2020, these



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petitioners along with others attempted to enter into the property and at that time, the second respondent making a false claim of the property in order to grab the property quarreled with the Advocate Commissioner and restrained the Advocate Commissioner without complying the order of the Court. On a reading of the First Information Report, it is made very clear that the second respondent had knowledge about the suit of the year 1973. While so, on 29.12.2020, the second respondent / defacto complainant herein along with some criminal elements assaulted the parties to the suit and the petitioners in the same place of occurrence in the presence of the Advocate Commissioner and thereby, a counter case has also been registered in Crime No.2593 of 2023. These petitioners having no way connected with the alleged offence, but, the second respondent falsely implicated them in this First Information Report. Therefore, the said FIR against these petitioners is abuse of process of law.

4. No counter was filed by the respondents.

5. The learned counsel appearing for the petitioners would submit that the first petitioner along with the Advocate Commissioner on the date



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of alleged occurrence entered into the suit premises as per the direction given by the District Munsif, Madurai and at that time, the second respondent along with others have assaulted the petitioners and others but, the First Information Report has been registered in Crime No.2592 of 2020 against these petitioners with false averments. Thereafter, these petitioners were present along with Advocate Commissioner and executed a commission warrant as per the direction of the District Munsif Court, Madurai. Already there is a civil dispute pending between the parties with regard to the properties and in order to take revenge for the same, the above said FIR has been filed by the second respondent with false allegations. No occurrence was happened as alleged in the First Information Report. Even according to the First Information Report, the allegations are false and in order to rope these petitioners into a criminal case the present complaint has been lodged with the false averments. Therefore, the pending First Information Report is an abuse of process of law and the same has to be quashed as against these petitioners.

6. The learned counsel appearing for the 2nd respondent would submit that on the date of occurrence, the Advocate Commissioner entered



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into premises and at that time, the petitioner requested and gave a petition and thereafter, the Advocate Commissioner left from the disputed property.

Due to that reason, these petitioners along with other accused entered into the premises and assaulted the defacto complainant and others with deadly weapons and also criminally intimidated them and thereby, the second respondent has given a complaint and based on the complaint, the First Information Report has been registered. Counter case has also been registered against the second respondent and the same is also pending. Since the case is in initial stage of First Information Report, it has to be investigated elaborately. Therefore, at this stage, the case cannot be quashed by this Court. Hence, this petition is liable to be dismissed.

7. The learned Government Advocate (Crl.Side) would contend that the complaint has been given by the second respondent before the first respondent and that a case has been registered in Crime No.2592 of 2020 for the offences punishable under Sections 147, 148, 323, 324 and 506(ii) IPC against the petitioners. Since the investigation of the case is in initial stage, this Criminal Original petition is liable to be dismissed.



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8. This Court has heard the learned counsel appearing on either side and perused the materials available on record.

9. It is an admitted fact that there is a civil dispute pending between the parties with regard to the property. The Advocate Commissioner also appointed in the Final Decree Proceedings and at the time of inspection of the Advocate Commissioner, the defacto complainant has requested the Commissioner and that the Advocate Commissioner returned back without executing the warrant. Thereafter, the petitioners and others alleged to have assaulted the defacto complainant and others. Therefore, this Complaint was given. On a perusal of the complaint, it is seen that there are some allegations as against the first petitioner / A1 and there is no specific overtact attributed against the petitioners 2 and 3 / Accused Nos. 11 and 12. No specific allegations as against these petitioners 2 and 3 to constitute any offences and the allegations are vague, bald, general and omnibus. Without any material, the petitioners 2 and 3 need not face trial. Though the FIR is not an encyclopaedia no materials available as against these petitioners 2 and 3 and some allegations are levelled as against the other accused and therefore, the pending First Information Report is liable



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to be quashed as against the petitioners 2 and 3.

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10. In view of the above, the pending First Information Report is quashed as against the petitioners 2 and 3 / Accused Nos.11 and 12 alone. With regard to the first petitioner / A1 this Criminal Original Petition is dismissed.

11. In the result, this Criminal Original Petition is partly allowed. Consequently, the connected Miscellaneous Petition is closed.

22.09.2023

Index : Yes/No
Internet : Yes/No
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- To
1. The Inspector of Police,
Thallakulam Police Station,
Madurai City,
 2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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P.DHANABAL, J.

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