



Crl.O.P(MD).No.4953 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.4953 of 2020

and

Crl.M.P(MD)No. 2853 of 2020

1. Sakkarai
2. Chellamani
3. Palchamy
4. Balajothi
5. Pounraj
6. Saraswathi
7. Leelavathi
8. Velmurugan
9. Sathish
10. Santhosh

...Petitioners

Vs

1. The Inspector of Police
Thirumangalam Town Police Station
Thirumangalam
Madurai District

2. Paulraj

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in pertaining to the First Information Report in Crime No. 254 of 2012 on the file of the first respondent and quash the same.

For Petitioners

: Mr.C.Selvakumar
for Mr.K.Kannan

For R-1

: Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.254 of 2012 on the file of the first respondent police.

2. Today when the matter is taken up for hearing there is no representation on behalf of the second respondent. Already notice sent several times it was returned door locked. Therefore it is deemed to be service of the notice to the second respondent.

3. According to the petitioners based on the complaint given by the second respondent the first respondent registered First Information Report in Crime No.254 of 2012 for the offences under Sections 147,148,353,341,447,427 and 506(ii) of IPC. The prosecution case is that the second respondent planted crops in the land being owned by the second respondent and on 16.04.2012 at about 10.00 a.m., when the second respondent engaged some coolie workers, the petitioner herein with the help of deadly weapons trespassed into the land of the second respondent and removed the cotton crops planted by the second respondent worth about Rs.500/-.Further the first petitioner herein threatened second respondent with dire consequences by showing aruval and the second and third petitioners herein waylaid the second respondent herein and attacked him and the fourth and fifth petitioners



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herein attacked the second respondent and pushed him down and other petitioners herein destroyed the cotton plants planted in the lands of the second respondent. Infact no such occurrence took place as alleged on the date of occurrence and the first petitioner herein being cultivating tenant of land planted the crops in the land and to that effect the Village Administrative Officer, Keela Urappanur village issued Adangal on 15.12.2009 and the second respondent herein has given complaint only on 20.08.2012. Therefore these baseless allegations is nothing but abuse of process of Court. Even as per the First Information Report no offence is made out and there is no ingredients to constitute the penal provisions mentioned in the First Information Report. The alleged occurrence took place in the year 2012 and still now the Station House Officer has not filed final report, hence the First Information Report in Crime No. 254 of 2012 is liable to be quashed.

4. The learned counsel appearing for the petitioners would contend that based on the complaint given by the second respondent the first respondent registered First Information Report in crime No. 254 of 2012 and the same is still pending. As per the First Information Report the petitioners damaged the crops and entered into the property and abused the defacto complainant and criminally intimidated him. Infact the above said property is under the possession and enjoyment of the petitioners and already the second respondent



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filed a suit in O.S. No. 105 of 2012 on the file of the District Munsif Court, Thirumangalam and the same was dismissed. Against the said decree and judgment he filed appeal suit in A.S. No.82 of 2019 on the file of the Sub Court, Thirumangalam and the same was allowed. In order to take revenge the civil suit also filed and appeal ended infavour of the first petitioner. In the above suit it has been decided that the appellate court has rendered findings that in the appeal the plaintiff, ie., the second respondent failed to prove the exclusive possession in respect of the suit property and the first petitioner is the cultivating tenant and thereby the offence under Sections 341,447 and 427 of IPC would not attract. In so far as other offences are concerned there is no ingredients to constitute the offence. Further for the past 11 years the first respondent has not filed any charge sheet and thereby the pending First Information Report is abuse of process of law and hence the First Information Report is liable to be quashed.

5. The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent the first respondent registered the First Information Report in Crime No. 254 of 2012 and thereafter investigated the case and the case is pending for filing final report. There are *prima facie* materials available to proceed with the case and hence the petition is liable to be dismissed.



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6. Heard both sides and perused the materials available on record.

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7. On perusal of the record it is observed that there is a civil dispute pending between the parties with regard to the possession of land and the defacto complainant filed a civil suit in O.S. No.105 of 2012 on the file of the District Munsif Court, Thirumangalam for the relief of permanent injunction and the same was decreed in her favour. Thereafter the first petitioner herein preferred an appeal against the judgement and decree in A.S. No.82 of 2019 before the Sub Court, Thirumangalam and the appellate court reversed the judgement and decree. Further the appellate Court observed that the first petitioner is the cultivating tenant and the present second respondent has not proved the exclusive possession of the property. Already the civil court has decided the issue and the first petitioner is the cultivating tenant and thereby the question of trespass and damaging of properties would not arise. Further the first respondent police have not filed final report for the past 11 years and thereby the pending First Information Report without any progress is abuse of process of law. Even the allegations against the petitioners is that they with deadly weapons trespassed into property and damaged the crops worth about Rs.500/- and also caused criminal intimidation. Further averments of the First Information Report shows that there are civil dispute pending between the parties and due to that civil dispute this First Information Report



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has been registered but non filing of charge sheet shows that the first respondent has not shown any interest in investigating the case. Since the first petitioner is the cultivating tenant there is civil dispute pending between the parties the pending First Information Report is abuse of process of law and hence the First Information Report is liable to be quashed.

8. Accordingly this Criminal Original Petition is allowed and the First Information Report in Crime No.254 of 2012 on the file of the first respondent is hereby quashed. Consequently connected miscellaneous petition is closed.

07.09.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Inspector of Police
Thirumangalam Town Police Station
Thirumangalam
Madurai District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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