



Crl.O.P.(MD)No.7237 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.7237 of 2020
and Crl.M.P.(MD)No.3538 of 2020

Solairaj

... Petitioner

Vs.

1.State Rep.by
The Inspector of Police,
Cumbum South Police Station,
Cumbum, Theni District.
(Crime No.349 of 2018)

2.Ruban Mathew

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR in Crime No.349 of 2018 dated 15.08.2018 on the file of the first respondent herein/Inspector of Police, Cumbum South Police Station, Theni District as against the petitioner herein.

For Petitioner : Mr.S.Chandrasekar

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

For R2 : Mr.R.M.Mohanram



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.349 of 2018 dated 15.08.2018 on the file of the first respondent herein/Inspector of Police, Cumbum South Police Station, Theni District as against the petitioner herein.

2. According to the petitioner, he is the owner of the property and there is dispute between the parties with regard to the property and thereby, civil cases are also pending. The petitioner preferred complaint as against the defacto complainant and FIR was also registered as against him and his family members in Cr.No.344 of 2018 for the offence under Sections 147, 294(b), 323, 324, 506(ii) IPC. Thereafter, FIR in Crime No.348 of 2018 was registered as counter blast and on the same day, the present FIR in Cr.No.349 of 2018 was registered for the offence under Sections 109, 147, 427, 506(ii) IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act 1992. There was no occurrence taken place as alleged in the complaint. Therefore, FIR in Cr.No.349 of 2018 is liable to be quashed.



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3.No counter was filed by the respondents.

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4.The learned counsel appearing for the petitioner would contend that there is civil dispute pending between the parties and thereby, frequent quarrel arose between them. The petitioner has also given complaint as against the second respondent and FIR was also registered in Cr.No.344 of 2019 on 14.08.2018. Thereafter, based on the false complaint given by the second respondent, the present FIR was registered in Cr.No.349 of 2018 for the offence under Sections 109, 147, 427, 506(ii) IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act 1992. In order to wreck vengeance for the previous complaint, the second respondent has given the complaint. That apart, another complaint was also given by the second respondent and the same was registered in Cr.No.349 of 2018 and already charge sheet was filed in the said case.

5.The learned counsel appearing for the second respondent seeks short accommodation. But this Court is not inclined to adjourn the case. The learned counsel appearing for the second respondent would contend



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that by giving direction to the trial Court to complete the trial within a stipulated time, this petition may be disposed of.

6.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and investigated the case and completed the investigation on 12.11.2018 itself and charge sheet also filed, but so far not taken on file by the concerned Jurisdictional Magistrate.

7.Heard both sides and perused the materials available in the records.

8.It is admitted fact that there is civil dispute pending between the parties. Apart from this FIR, there are two FIRs were also registered and in one FIR in Cr.No.349 of 2018, already charge sheet was filed and quash petition in Crl.O.P.(MD)No.7438 of 2020 was also disposed of. Since there is counter case pending in Cr.No.344 of 2018, it is not appropriate to quash FIR at this stage. That apart, investigation in this



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case was already completed and charge sheet also filed. It is for the trial Court to decide whether there are cases in counter, if the cases are arising out of same occurrence, then, the trial Court has to conduct synchronous trial by following procedure for case and counter case. Accordingly, concerned Jurisdictional Magistrate is directed to conduct simultaneous trial by adopting the procedures laid down by the Hon'ble Supreme Court of India in a case of *Nathi Lal and others Vs. State of U.P. and another* if the cases are arising out of same occurrence otherwise conduct ordinary trial in accordance with law and dispose of the same, within a period of six months from the date of receipt of a copy of this order.

9. With the above observations and directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

07.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P. DHANABAL,J.

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To

1. The Inspector of Police,
Cumbum South Police Station,
Cumbum, Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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