



Crl.O.P.(MD)No.12366 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.12366 of 2020
and Crl.M.P.(MD)Nos.5568 & 5631 of 2020

1.Prasanna

2.Sowpackiam

3.Appan @ Subramanian

... Petitioners

Vs.

1.The Inspector of Police,
District Crime Branch (ALGSC),
Dindigul.

2.K.Palaniammal

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.47 of 2019 on the file of the learned Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and quash the same.

For Petitioners

: Mr.S.Ramasundarvijayraj
for M/S.Veera Associates



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

For R2 : Mr.S.Senthil Kumar

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.47 of 2019 on the file of the learned Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.

2.According to the petitioners, the second respondent filed a complaint before the first respondent alleging that she has been residing in the property comprised in S.No.395, Sellaippagounden Pudur, Oddanchathiram Village Taluk, Dindigul District, whereby she constructed a hut and the same was demolished by the petitioners on 12.07.2015 and when the same was questioned by the defacto complainant, wordy quarrel arose between them and the petitioners have abused her in filthy language and threatened her with dire consequences. Based on the above said compliant, the first respondent registered a case in Cr.No.57 of 2015 for the offence under Sections 120(B), 420, 447,



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468, 465, 294(b), 506(i) IPC r/w Section 3 of TNPPDL Act. Thereafter,

the first respondent investigated the case and filed final report and the same was taken cognizance by the learned Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai in C.C. No.47 of 2019. In fact, the petitioners are innocent and they have not committed any offence and they have been falsely implicated in this case. Originally the property comprised in S.No.395, Sellaippagounden Pudur, Oddanchathiram Village Taluk, Dindigul District measuring an extent of 1 acre 18 cents belong to one Kuppuchi Gounder. He transferred the said property in favour of his daughters, namely, Kuppayyiammal and Athammal respectively. After the death of Athammal, her legal heirs are in possession and enjoyment of the property. While facts are being so, the defacto complainant and henchmen have created false documents as if there was some partition during the year 2008, whereby, it is alleged that the said properties of the petitioners was leased out to her and thus, claiming as if she was a tenant and constructed a house and this property belongs to her. Further, the defacto complainant filed a suit in O.S.No.18 of 2010 before the learned District Munsif Court, Oddanchathiram seeking for relief of permanent



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injunction as against the petitioners and the same was dismissed on 21.09.2017. Another suit was filed by one Palanichamy Gounder in O.S. No.244 of 2009 and the same was also dismissed on 21.09.2017. In the above said circumstances, the defacto complainant chose to file the above complaint as against the petitioners by making false allegations. The defacto complainant has no any right over the property and the property is under exclusive enjoyment of the petitioners. Further, the defacto complainant made a complaint before the District Revenue Officer, Dindigul to transfer the patta in her favour and the same was also dismissed on 01.09.2020. Therefore, the present complaint is clear abuse of process of law and the same is liable to be quashed.

3.The second respondent filed counter alleging that originally the second respondent lodged complaint before the first respondent and they registered FIR in Cr.No.57 of 2015 for the offence under Sections 120(B), 420, 447, 468, 465, 294(b), 506(i) IPC r/w Section 3 of TNPPDL Act and thereafter, the police have filed charge sheet as against the petitioners and the same was taken cognizance in C.C.No.47 of 2019. All the accused persons conspired together and created false and forged



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documents in respect of the second respondent's property and also grabbed her house by demolishing the same. Further, the petitioners formed a poultry farm in the property. The second respondent owned property and house to the extent of 4340 sqft, wherein more than 20 families are residing for more than 10 decades. While so, when she was under treatment in her son's house, on 07.10.2015, when she came back and noticed the above said activities of the petitioners. Thereafter, she made a complaint before the first respondent and they only gave receipt and thereafter, they registered FIR and after elaborate investigation, filed final report, since prima facie materials available as against the petitioners. More than 10 decades the second respondent and others are residing in the above said property, but the petitioners fabricated and created documents. The offences are grave in nature and hence, this petition is liable to be dismissed.

4.The learned Government Advocate(Crl.side) appearing for the first respondent based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.57 of 2015 for the offence under Sections 120, 120(B), 420, 465, 468, 294(b) and 506(1) IPC. After



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completion of investigation, the first respondent filed charge sheet for the offence under Sections 120(B), 420, 447, 294(b) and 506(i) IPC as against the petitioners herein and the same was also taken cognizance by the learned Magistrate in C.C.No.47 of 2019. The complaint was lodged by the defacto complainant stating that she is the owner of the property to an extent of 4340 sqft and she has been in possession and enjoyment of the same for more than 60 years by constructing a house. For a short period, she was staying with her son due to her health issue. At that time, the petitioners demolished the house and constructed a poultry farm. When the same was questioned by the second respondent, they abused and criminally intimidated her. Thereby, she gave complaint. Already the second respondent filed suits in O.S.Nos.244 of 2009 and 18 of 2010 and the same were dismissed. During investigation, so many witnesses were examined and statements were also recorded. As per statements, prima facie materials available and thereby, they filed charge sheet.

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

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6.On perusal of records shows that already civil suit was filed by the defacto complainant in the year 2009 and the same was dismissed.

According to the petitioners, false case has been preferred as against the petitioners and they are the owners of the property. Patta also stands in their name. Therefore, none of the offence made out as against the petitioners. According to the defacto complainant, she along with others have been in possession of the property and the petitioners fore-fathers granted permission to have the possession of the property and they are in permissible possession of the property. Without knowledge of the second respondent, the petitioners demolished the property and constructed poultry farm.

7.On perusal of FIR and charge sheet reveals that the petitioners are the owners of the property and the second respondent filed suit as against the petitioners and the same was also dismissed. It shows that there is a civil dispute pending between the parties with regard to the property. It is admitted fact that the property is belongs to the petitioners and the second respondent contends that she and others are enjoying the property for more than 10 decades and the petitioners without following



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the legal procedures, demolished the property. But the final report filed by deleting the Section 3 of TNPPDL Act and Sections 468, 465 IPC, since civil Court also declined the relief of the second respondent and the petitioners' fore-fathers also having patta from the year 1912 and the petitioners are the owners of the property. In the year 2015 the second respondent filed the present complaint alleging that they damaged the property and abused in filthy language and caused criminal intimidation. Therefore, available records shows that the petitioners are the owners of the property and allegations are bald allegations as against the petitioners. Civil dispute was given into criminal colour and thereby, it is pure abuse of process of law. Hence, the charge sheet in C.C.No.47 of 2019 as against the petitioners is liable to be quashed.

8.At this juncture, both side learned counsels represented that the Hon'ble Supreme Court quashed the Government Order passed in respect of the land grabbing special Court and the cases pending before the land grabbing Court were transferred to the original jurisdictional Court. The present case is now transferred to learned Judicial Magistrate No.II, Dindigul and so far new C.C.number has not been assigned.



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9. In view of the above said submission, the impugned charge sheet in C.C.No.47 of 2019, which is now transferred to the file of learned Judicial Magistrate No.II, Dindigul is hereby quashed. Consequently, connected miscellaneous petitions are closed.

22.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai.
2. The Judicial Magistrate No.II, Dindigul.
3. The Inspector of Police, District Crime Branch (ALGSC), Dindigul.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



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P. DHANABAL,J.

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