



Crl.O.P.(MD)No.13394 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.13394 of 2020

and

Crl.M.P.(MD)No.6152 of 2020

1.P.Sivaprakash

2.S.Hari

... Petitioners

Vs.

1.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram
(Cr.No.308 of 2020)

2.Saribu

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings of FIR in Crime No.308 of 2020 pending on the file of the respondent police and to quash the same as against the petitioners.

For Petitioners : Mr.Babu Rajendran



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For R1 : Mr.R.M.Anbunithi,
Government Advocate (Crl. Side)

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash FIR in Crime No.308 of 2020 pending on the file of the respondent police as against the petitioners herein.

2.According to the petitioners, the first respondent police has registered a case against the petitioners, on the basis of the complaint lodged by the second respondent for the alleged offence under Sections 147, 448 and 323 IPC. According to the prosecution case, the petitioners were encroached the property of the defacto complainant. While so, on 06.08.2020, when they went to the house of the petitioners, the family members of the petitioners attacked the son of the defacto complainant and son of his sister. On the same day, at about 09.00 pm., the petitioners and three others criminally trespassed into the house of the defacto complainant and criminally intimidated them. In fact, the



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disputed property belonged to one Ismail. The said Ismail executed power deed in favour of one Sambath @ Noor Mohammed through a registered power deed dated 17.04.2015 and the said Sambath @ Noor Mohammed, for himself and as a power agent of Ismail, had executed a sale deed in favour of the first petitioner herein on 25.06.2015. The first petitioner, in turn, executed settlement deed in favour of his brother on 07.09.2016 and from that date onwards, the first petitioner's brother has been in possession and enjoyment of the property. In such circumstances, one Riswan and one Samsammal, who are the close relatives of the defacto complainant, scolded the petitioners and criminally intimidated them. Hence, the petitioners herein lodged a complaint as against them before the respondent police in Cr.No.307 of 2020 for the offence under Sections 294(b) and 506(i) IPC. Only as a counter blast to the above said complaint, the present false complaint came to be lodged by the defacto complainant. Hence, the impugned FIR is liable to be quashed.

3. No counter was filed by the respondents.



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4.The learned counsel appearing for the petitioners would contend that there is a dispute between the parties. The first petitioner has purchased the property from one Sambath @ Noor Mohammed through sale deed dated 25.06.2015. Thereafter, the first petitioner executed settlement deed in favour of his brother on 07.09.2016. While so, the relatives of the defacto complainant, namely, one Riswan and one Samsammal, scolded the petitioners and also criminally intimidated them. Hence, the petitioners lodged a complaint as against them and the same was registered in Cr.No.307 of 2020 for the offence under Sections 294(b) and 506(i) IPC. As a counter blast, the defacto complainant lodged the present false complaint and the same was also registered in Cr.No.308 of 2020 for the offence under Sections 147, 448 and 323 IPC. In fact, no such occurrence was happened as alleged in FIR. Even according to FIR, no offences are made out. Therefore, the impugned FIR 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



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second respondent, FIR came to be registered and thereby, the case has been investigated by the first respondent and now, charge sheet was filed before the learned Judicial Magistrate No.2, Kadaladi and some of the accused were deleted. The trial Court also issued notice to the defacto complainant. Further, the petitioners also preferred a complaint and FIR was also registered in Cr.No.307 of 2020 and the same is pending.

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

7.On perusal of records shows that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.Cr.No.308 of 2020 for the offence under Sections 147, 448 and 323 IPC and thereafter, final report was also filed. The learned counsel appearing for the petitioners brought to the knowledge of this Court that in the counter case, the second respondent herein is not a party and the petitioners preferred complaint only as against one Riswan and one Samsammal. Since already final report has been filed and some of the accused's name were deleted, at this stage, this Court need not pass any order in this petition. The petitioners are at liberty to challenge the final



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report, in accordance with law.

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P. DHANABAL,J.

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

14.08.2023

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

- 1.The The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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