



Crl.O.P.(MD).No.16737 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 01.11.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).Nos.16737 & 16621 of 2021

and

Cr.M.P.(MD).Nos.9049 & 8973 of 2021

Crl.O.P.(MD).No.16737 of 2021

Balakrishnan

... Petitioner/ Sole Accused

Vs.

1. State rep. by its

The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
(Crime No.214 of 2021)

... 1st Respondent/Complainant

2. Shankar

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in Crime No.214 of 2021 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)
for R1
: Mr.T.Arul for R2



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1.Ramachandran

2.Gunaseelam

3.Gunsekaran

4.Lakshmikanthan

5.Rajendran

... Petitioners

Vs.

1. State rep. by its
The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
(Crime No.216 of 2021)

... 1st Respondent/Complainant

2. Shankar

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in Crime No.216 of 2021 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.R.J.Karthick

For Respondents : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)
for R1

: Mr.T.Arul for R2

COMMON ORDER

The petitioner in Crl.O.P.(MD).No.16737 of 2021 has been filed this petition to quash the FIR in Crime No.214 of 2021, on the file of the 1st



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respondent police.

2. According to the prosecution, the petitioner trespassed into the property of the defacto complainant and caused damages to the compound wall. Hence, the case was registered for the said offence. Subsequently, the defacto complainant made a complaint, thereafter, the investigation was going on. During the pendency of the investigation, the defacto complainant once again constructed the compound wall. Again the petitioner also trespassed into the property of the defacto complainant and caused damages to the compound wall. Hence, another complaint was given and the same was registered in Crime No. 216 of 2021. Aggrieved over the same, the petitioner has filed the petition in Crl.O.P.(MD).No.16621 of 2021.

3. The learned counsel for the petitioners have submitted that the petitioners are not involved in the said occurrence and the petitioners have filed with *malafide* and also civil suit is pending between the parties. Hence, there is no illegal trespass and the petitioners also have the right over the property.

4. The learned counsel for the defacto complainant would submit that the



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petitioners have trespassed the house. It is to be noted that the pendency of the dispute is not a bar to initiate the criminal proceedings. In the civil suit, there is no order in favour of the petitioners and hence he has committed the offences as alleged in the FIR.

5.The learned Government Advocate (Criminal Side), on instructions, submits that the investigation has been completed in both cases and the investigating agency has found that they have demolished the building after the proper investigation.Final report is also filed before the concerned Court.

6.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

7. Considering the submission of the learned Government Advocate (Crl.Side) that the investigating agency has completed the investigation and filed the final report before the concerned court with specific opinion that the petitioners have demolished the building on the basis of the material collected during the investigation and the submission of the defacto complainant that he obtained injunction in the civil suit, despite the same, the petitioners criminally



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trespassed into the property and caused damages. Hence, this court is not inclined to peruse the factual aspects by exercising the extraordinary inherent power under section 482 of Cr.P.C. to entertain the quash petition filed by the petitioners to quash the FIR.

8. Accordingly, the Criminal Original Petitions are dismissed with liberty to the petitioners to raise all the contention before the learned trial Judge. Consequently, connected miscellaneous petitions are closed.

01.11.2023

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

sbn

To

1. The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

sbn

Crl.O.P(MD).Nos.16737 & 16621 of 2021
and
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