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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 12/04/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.21206 of 2022
and
Cr1.MP(MD)No.14856 of 2022

1.Mrs.Preethi
2.Kasthuri
3.Pandi @ Thangapandi
4.Karuppu : Petitioners/A2 to A5

Vs.

1.State through Inspector of Police,
Alanganallur Police Station,
Alanganallur,
Madurai Rural District,
(Crime No.172 of 20220 : R1/1st Respondent
2.Tmt.Nithya : R2/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.172 of 2022 on the file of the 1st respondent and quash the same and pass such further or other orders.

For Petitioners : Mr.T.K.Gopalan
For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)
For 2nd Respondent : No appearance

**ORDER**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.172 of 2022 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The second respondent, the de-facto complainant lodged a complaint stating that she purchased the property through her father and settlement deed some 4 years prior to the occurrence. The accused persons broke open the lock and caused damage to the compound wall. When that was questioned, she was abused in filthy language and also criminally intimidated. Seeking protection, she lodged the above said complaint. In the complaint, it is also stated that a similar attempt to murder her mother happened in 2021 and her father was also tried to be killed in 2019 and his sister was also try to be killed. The above said complaint was registered in CSR No.262 of 2022. Later, registered as a case in Crime No.172 of 2022 on 23/06/2022 for the offences under sections 147, 294(b), 427 and 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.



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3. Investigation was undertaken and during the course of investigation, documents were collected to show the ownership of the property in Survey Nos. 46/24, 46/16A and 46/6B1 in Metupatti village. On 01/06/2021, a detailed complaint has been sent to the Superintendent of Police stating that she purchased the property from her father, on 16/11/2018 and Arun demanding the above said property was causing continuous trouble. Because of the continuous trouble, the parents as well as her sister gave a complaint against the above said Arun. They also tried to grab the property. On 29/05/2022, she put up a compound wall. That was damaged by the accused persons. Over which, she gave a complaint before the Alanganallur Police Station, on 31/05/2022. It was enquired in CSR No. 262 of 2021. But no action was taken. When the Sub Inspector of Police, inspected the place of occurrence, again, the accused persons criminally intimidated her in the presence of police. In 2019, the accused Arun caused assault to her father. But, later that complaint was withdrawn by her. Similarly, on 14/12/2021 also, Arun and Preethi tried to assault her mother, over which also a complaint was given. Over the above said complaint, enquiry was conducted in which both parties appeared. The



wife of Arun namely Preethi appeared on behalf of her husband and gave a statement that her husband namely A1 is in Dubai. The property in Survey No.46/6A was in the possession of her husband. Since her husband is in abroad, she is managing the property. On 29/05/2022, the complainant and others tried to cause damage and criminally intimidated her and her husband. Over which, a complaint was given. In the meantime, the complainant also filed a petition seeking police protection before this court. Before that, there were exchange of legal notices between the parties. The reply notice by the complainant is 03/12/2021, wherein she sought time to give proper reply. After that, a suit in O.S No.379 of 2022 was filed before the 6th Additional District Judge, Madurai, by A1 namely Arun through his wife Preethi against the complainant, her mother and her sister for declaration of title and permanent injunction in respect of several properties. The date of filing of the above said suit is not clear on record. But the plaint copy reads that it was filed, on 13/06/2022. This shows that after the above said alleged occurrence, the said suit has been filed. It is stated to be pending.



4. Seeking quashment of the proceedings, this petition has been filed mainly on the ground that it is purely a title dispute between brother and the sister, for which, a suit has also been filed; Initiation of criminal proceedings is nothing, but a *mala fide* one.

5. Per contra, it is the case of the second respondent that the property belongs to her, absolutely, and only the accused persons damaged the compound wall and criminally intimidated. Since the criminal intimidation is the main issue, the investigation must be allowed to take to its own course.

6. From the preamble portion, it is seen that it is a property issue between the brother and sister. To whom the property belongs is a matter for consideration before the court the suit is pending between the parties.

7. Further perusal of the CD file as well as the narration of facts, it is seen that both sides have given complaint and counter complaint against each other making allegation that they have caused criminal intimidation to each other. But what happened to the complaint given by



8. Now whatever it may be, since it is alleged that damage is caused to the compound wall, CD file was called for and perused. Wherein, we see that during the course of investigation, no damage was noticed by the Investigating Officer. Parvai mahazar and rough sketch does not indicate the damage. Who put the above said compound wall is also a matter for consideration by the civil court.

9. It is also seen that repeated complaints have been given by the de-facto complainant, her parents and sister against A1. Similarly, in turn A2 has also given complaint against the de-facto complainant. So it is seen that continuous trouble exists between the parties.

10. In the light of the above said development, I am of the considered view that it may not be proper for the police to make an investigation into the issue, since civil court has seized the matter. To whom the property



belongs is the only matter to be resolved between the parties. So when no *prima facie* material is available to show the alleged damage, the alleged criminal intimidation and abuse are only bald in nature as contended by the learned counsel appearing for the petitioners. When we read the FIR it does not indicate even the basic requirements. Only bald allegations have been made even without referring to the nature of the criminal intimidation and the nature of the words spoken by the accused. So, I am of the considered view that continuation of the prosecution will amount to a *mala fide* exercise of right by the de-facto complainant.

11. In the result, this criminal original petition is **allowed**. The FIR in Crime No.172 of 2022 on the file of the 1st respondent is hereby quashed against the petitioners. Consequently, connected Miscellaneous Petition is closed.

12/04/2023

Index:Yes/No
Internet:Yes/No

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To,

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



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G.ILANGOVAN, J

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