



Crl.O.P.No.1344 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.1344 of 2022

and

Crl.M.P.No.519 of 2022

1. Rathinasabapathy
2. Sivaramakrishnan
3. Meena Rathinasabapathy

... Petitioners

Versus

1. State rep. by
Sub-Inspector of Police,
G3 Kilpauk Police Station,
Kilpauk, Chennai-600 010.
(Crime No.139 of 2019)

2. N.Thilagavathi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the F.I.R. filed in Crime No.139 of 2019 on the file of G3 Kilpauk Police Station, Chennai.



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For Petitioners : Mr.S.Rajendrakumar for
M/s. Norton and Grant

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

Ms. R.Vaigai,
Senior Advocate for
Mr.A.Arun for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No. 139 of 2019 on the file of 1st respondent police.

2. Heard both sides.

3. On perusal of records, it reveals that the demolition of wall is the issue between the parties with regard to a common passage and it is the allegation levelled against the petitioners in F.I.R.No. 139 of 2019. However, already a civil suit in O.S.No. 6626 of 2014 was filed and the same is pending between the parties from the year of 2014 alleging that demolition said to be happened by the defacto complainant. Moreover, in the said suit, Advocate Commissioner was appointed and a report was also filed in I.A.No.13848 of 2015. As per the commissioner's report, the



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learned counsel for 2nd respondent would submit that the petitioners have encroached the property. But, all these years, the commissioner's report is pending before the trial court. However, during the pendency of trial proceedings, the F.I.R. was lodged as per the submissions of learned Government Advocate. If at all any such wall is demolished, it can be decided in a civil suit at the end of trial. So, at this stage, the proceedings initiated against the petitioners cannot be quashed as if investigation is at preliminary stage. Hence, this petition is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed as no merit. Consequently, connected Criminal Miscellaneous Petition is closed.

09.01.2024

Index: Yes/No
Internet: Yes/No
rpp

To

1. Sub-Inspector of Police,
G3 Kilpauk Police Station,
Kilpauk, Chennai-600 010.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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