



WEB COPY



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

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

Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

1. V.Seenuvasamurthy
2. V.Sudhakar
3. Uma Maheswari

... Petitioners

Versus

1. The State rep. By
The Inspector of Police,
Thirukanur Police Station,
Puducherry

2. A.Pavadaisamy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash the FIR in Crime No.15 of 2022 dated 05.02.2022 pending on the file of Thirukanur Police Station, Puducherry.



WEB COPY



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

For Petitioners : Mr.K.Sasindran

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)
Assisted by
M/s M.S.N.Danalatchamy for R1
No Appearance for R2

ORDER

The present petition has been filed to call for the records and to quash the FIR in Crime No.15 of 2022 dated 05.02.2022 pending on the file of Thirukanur Police Station, Puducherry.

2. Heard the learned counsel appearing for the petitioners and Mr.K.S.Mohandass, learned Public Prosecutor (Puducherry) assisted by M/s M.S.N.Danalatchamy for 1st respondent and perused the documents placed on record.

3. Admittedly, based on a complaint given by the 2nd respondent against the petitioners, an FIR was registered in Crime No.0015 of 2022 for offences under Sections 427, 447, 109 and 34 of IPC. Immediately, the petitioners, who are the accused in the said case filed the present petition to quash the proceedings stating that already civil suit is pending



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

WEB COPY

between the parties in respect of A and B schedule properties, namely, agricultural lands in O.S.No.724 of 2013 and the same was decreed in favour of the defacto complainant / 2nd respondent. As against which, these petitioners, who are defendants in the suit preferred an appeal in A.S.No.2 of 2022, which is pending on the file of District Court, Puducherry. Pending appeal, the defacto complainant / 2nd respondent gave a complaint on 05.02.2022, as if the petitioners have damaged the cement pillar said to be existed in the property, which belongs to them and caused damage worth about Rs.1,00,000/-, thereby implicated in the present case.

4. It is the contention of the learned counsel for the petitioners that there is no such cement pillar in the said property, but in order to harass these petitioners, a false complaint was lodged by the 2nd respondent, who is the husband of one Santhi, original owner of the property, besides that, she is the Inspector of Police, Pondicherry.

5. It is the further contention of the learned counsel for the petitioners that the petitioners have a valid defense to prove their case



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

WEB COPY

before the appellate court. Having taken into advantage of the subject decree, the 2nd respondent gave a false complaint at the instigation of his wife, namely, Santhi, hence prays to quash the proceedings as abuse of process of law.

6. Per contra, the learned Public Prosecutor (Puducherry) appearing on behalf of the 1st respondent submits that O.S.No.724 of 2013 was filed by the said Santhi, wife of 2nd respondent represented through her husband and obtained valid decree. Since the petitioners, who are defendants in the suit caused interference and damaged the property, the complaint was given and only based upon a prima facie enquiry, the 1st respondent-Police lodged FIR in Crime No.0015 of 2022, hence prayed to dismiss the petition as no merits.

7. A perusal of the documents placed on record reveals that O.S.No.724 of 2013 was filed by the defacto complainant against the petitioners for the relief of declaration and other consequences reliefs and the suit was contested by these petitioners. The suit was decreed in favour of the defacto complainant on 25.11.2021, but the petitioners /



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

defendants herein filed A.S.No.2 of 2022 and the same is pending before the District Court, Puducherry, as on date.

8. Admittedly, on a perusal of the schedule of property given in the plaint, filed by the defacto complainant shows that there is no such existence of cement pillar in the suit property, if at all the cement pillar was existed in the property, the same ought to have been mentioned in the plaint schedule. The petitioners have preferred an appeal as against the decree ended in favour of 2nd respondent / defacto complainant and the same is pending as on date, therefore, till the disposal of the said appeal by the appellate court, the property cannot be decided at this stage.

9. Further more, on a perusal of the complaint it is clear that there is no such particulars that the cement pillar had fallen against the defacto complainant or their family members and there is no prima facie material about the existence of the cement pillar, therefore, the complaint lodged by the 2nd respondent has no basic ingredients to attract the offences under Sections 427, 447, 109 and 34 of IPC, therefore, the present petition is liable to be allowed.



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

WEB COPY

Accordingly, the present Criminal Original Petition is allowed and the FIR in Crime No.15 of 2022 pending on the file of the Thirukanur Police Station, Puducherry is hereby quashed. Consequently, connected miscellaneous petition is closed.

24.01.2024

Index: Yes/No
Internet: Yes/No

ssd

To

1. The State rep. By
The Inspector of Police,
Thirukanur Police Station,
Puducherry
2. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

T.V.THAMILSELVI, J.

ssd

Crl.O.P.No.7629 of 2022 &
Crl.M.P.No.4392 of 2022

24.01.2024