



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM:

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

CRL.OP No. 8235 of 2022 &
Crl.MP.Nos. 4800 of 2022

1.Shabeer

2.Shanbasha

3.Babu

4.Aiyaz Pasha

5.Sulthan @ Fayaz

6.Vaji @ Vajith Basha

7.Abuna @ Afrose

8.Marthan @ Alla Bakshu

...petitioners

Vs.

1.The State Rep. by
The Inspector of Police,
Thally Police Station,
Krishnagiri District.



...Respondents

PRAYER : This petition has been filed under Section 482 of Cr.P.C, to call for the records of the FIR in crime No. 6 of 2022 dated 08.01.2022 on the file of the Inspector of Police, Thally Police Station, krishnagiri District and to quash the same.

For Petitioners : Mr. V.Prabhakaran
For R1 : Mr. S.Vinoth Kumar
Government Advocate (Crl. side)
For R2 : Service Awaited

ORDER

The petitioner herein filed this petition to call for the records of the FIR in crime No. 6 of 2022 dated 08.01.2022 on the file of the Inspector of Police, Thally Police Station, krishnagiri District and to quash the same.

2. The case of the prosecution is that the defacto complainant is residing owned land in Balathoddanapalli near Bismilla Majood Masjid and that house is situated near the Masjid. While so, at the time of cleaning the masjid, had demolished and damaged the building of the defacto complainant and the same was enquired by the defacto complainant and his



brothers. At that time, quarrel arosed between the parties due to which the petitioners assaulted the defacto complainant and his brothers thereby they sustained internal injuries and thereafter petitioners threatened the defacto complainant. Subsequently, the defacto complainant was admitted to hospital and FIR was registered in Crime No. 6 of 2022 under Section 147, 294(b), 323, 506(i) IPC.

3. The learned counsel for the petitioners submit that the first petitioner is working as Auditor at Bangalore and he is a committee member of Bismilla Masjid at Balathoddanapalli, he and others decided to construct the tower as well as new toilet facility for the said Masjid thereby on 05.01.2022 they demolished the old toilets and started cleaning at the backside of the masjid and there was no issues at that time and on 07.01.2022 at about 3.00 p.m., in the evening when the first petitioner along with other members were in a discussion in the masjid, at that time one Moosa came inside the Masjid, who shouted at the petitioners and quarreled with the petitioners and at that time the defacto complainant and others came inside and started abusing one of the committee member due to which wordy quarrel arosed between them and the defacto complainant attacked the petitioners. Thereby, the petitioners were admitted in the hospital.



Thereafter, complaint was lodged against the defacto complainant which was registered in crime No. 7 of 2022 under Section 147, 294(b) 323, 506(i) IPC. But, the respondent police without conducting proper investigation registered the FIR against the petitioners. In fact, they failed to take note of the fact that the petitioners also sustained injuries. Further, he submitted that Section 147 IPC is not made out as there was no public gathering at that time. Hence, he prayed to quash the FIR registered against the petitioners.

4. On seeing the facts of the case, it is a case in counter, the entire facts reveals that on that date of alleged occurrence, the Majid members demolished the building in order to construct new bathroom, at that time the defacto complainant's building was damaged due to which the wordy quarrel arosed between the defaccto complainant and the petitioners but as there is no individual witnesses and material evidence to prove the same. Furthermore, the petitioners filed an undertaking affidavit before this Court that they are ready to pay a sum of Rs.50,000/- to the defacto complainant for the damage caused to the old building and they are not inclined to proceed with FIR No. 7 of 2022 filed by them against the defacto complainant and others. As discussed above, the FIR in crime No. 6 and 7 of 2022 is ordered to be quashed and the undertaking affidavit filed by the



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petitioners is is forming part of the order.

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5. In the result, this petition is allowed. Consequentially, connected miscellaneous petition is closed.

02.02.2024

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To
The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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