



CrI.O.P.No.399 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

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

CrI.O.P.No.399 of 2022

and

CrI.M.P.Nos.140 & 141 of 2022

1. Nanjundan Bojan
2. Nithya
3. Saradhadevi
4. Deepa
5. Sarasvathi
6. Papannan

... Petitioners

Versus

1. The Inspector of Police,
Wellington Police Station,
Wellington, The Nilgiris.
2. Sub-Inspector of Police,
Upper Coonoor Police Station,
Upper Coonoor, The Nilgiris.
(Crime No.187 of 2018)
3. Ravi Kumar

... Respondents



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PRAAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the final report in S.C.No. 27 of 2020 on the file of the learned Principal District and Sessions Judge, Udhagamandalam, Nilgiris dated 19.09.2019 and quash the same.

For Petitioners : Mr.S.Doraisamy
For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side)
for R1 and R2

R3 – No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the final report in C.C. No. 27 of 2020 on the file of learned Principal District and Sessions Judge, Udhagamandalam, Nilgiris.

2. Heard both sides.

3. The petitioners are ranked as A1 to A6 in the F.I.R. in Crime



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No.387 of 2018 registered against them for the offence under Sec.142, 294(b), 447, 427, 506(2) of I.P.C. Subsequently, the final report has been filed and the same was taken on file in S.C.No.27 of 2020 on the file of learned District Sessions Judge, Udhagamandalam and the same is pending. Now, the petitioners have filed this petition praying to quash the said final report.

4. Brief facts of the case is as follows :-

The petitioners father-in-law purchased the property measuring an extent of 0.04 acres of land in Survey No.116/68, Yedappalli Village through a registered sale deed dated 28.06.1993 and put up a house therein. From that date onwards, he is in possession and enjoyment of the suit property with the specified compound wall surrounded on three sides. According to the 3rd respondent/defacto complainant, he has purchased 0.02 acres of land in Survey No.257/13, New Survey No.116/2 on the northern side of petitioners house in the year of 2008 and put up construction. However, the 3rd respondent attempted to encroach into the aforesaid property and also creating serious threat to his family. Hence, the petitioners mother-in-law was constrained to lodge a complaint



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before the 1st respondent police and copy was addressed to the Bar Council of Tamil Nadu, The Registrar General of this Court etc. Accordingly, suits were also filed by the 3rd respondent in O.S.Nos. 56 of 2011 and 63 of 2015 before the District Munsif Court, Coonoor and the same are pending. In order to give constant harassment to the 1st petitioner and the entire family, the 3rd respondent/defacto complainant gave the present complaint and subsequently the final report was filed. Now, the petitioners have filed this petition praying to quash the proceedings initiated against them.

5. The learned counsel for petitioners would submit that in order to harass the petitioners and with an ill-motive to grab the property adjacent to the 3rd respondent's property, present complaint in Crime No.387 of 2018 as well as Crime No.381 of 2018 were lodged against them. In fact, the 3rd respondent/defacto complainant attempted to put up a compound wall in the property, which is the subject matter of the civil suit pending between the parties. The learned counsel would also submit that the present complaint lodged by the 3rd respondent/defacto complainant is only with an ill-motive and in order to harass them and he has also



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preferred number of cases, since he being an advocate by profession.

Hence, they wanted to quash the proceedings stating that there is no ingredients to attract the alleged offence of Sec.506(ii) of I.P.C. and Sec.3 of TNPPD Act and Sections 294(b), 447 and 147 of I.P.C.

6. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent raised objections, but admits the fact that the 3rd respondent/defacto complainant was an advocate by profession and as on date, he is no more.

7. Admittedly, on perusal of records, in respect of compound wall, a civil suit is pending between the parties from the year of 2011 in O.S.No. 56 of 2011 and another suit in O.S.No. 63 of 2015. The entire facts reveals that the dispute between parties in respect of compound wall, but the said compound wall in the suit property is the subject issue in the civil suit pending between them. Therefore, if at all, any right is aggrieved by the 3rd respondent/defacto complainant, he has to work out his remedy before the civil court. Furthermore, the 3rd respondent/defacto complainant in order to harass the petitioners, initiated those proceedings with a malafide intention by taking advantage of his profession by



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advocate. Therefore, it is a clear case of abuse of process of law and the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and this Court is inclined to quash the proceedings initiated against the petitioners in S.C.No. 27 of 2020 as vexatious one. However, both parties are directed to work out their remedy before the civil Court. Consequently, connected Criminal Miscellaneous Petitions are closed.

19.01.2024

Index: Yes/No
Internet: Yes/No
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To

1. The Inspector of Police,
Wellington Police Station,
Wellington, The Nilgiris.
2. Sub-Inspector of Police,
Upper Coonoor Police Station,
Upper Coonoor, The Nilgiris.
3. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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