



CrI.O.P.No.11224 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM:

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

CrI.O.P.No.11224 of 2022

and

CrI.M.P.No.6451 of 2022

1. Kathirvel
2. K.Tamilmani
3. Parthasarathy
4. Padmanabhan

... Petitioners

Versus

1. State rep. by
Inspector of Police,
D-2 Chengalpattu Taluk Police Station,
Chengalpattu Dt.
(Crime No.516 of 2015)

2. Thirumalai

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records made in C.C.No. 131



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of 2016 on the file of Judicial Magistrate-II, Chengalpattu and quash the same as illegal.

For Petitioners : Mr.R.Sankarasubbu
For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1
Mr.M.Mohamed Riyaz for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 131 of 2016 on the file of learned Judicial Magistrate-II, Chengalpattu.

2. Heard both sides.

3. The petitioners are ranked as A1 to A4 in the F.I.R. in Crime No.516 of 2015 registered on 05.08.2015 for the offence under Sec.147, 148, 294(b), 323, 427, 447 and 506(1) of I.P.C. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.131 of 2016 on the file of Judicial Magistrate-II, Chengalpattu and the same is pending. Now, the petitioners have filed this petition praying to quash



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the said charge sheet initiated against them.

4. The learned counsel for petitioners would submit that no such alleged occurrence happened as alleged by the 2nd respondent/defacto complainant and they have been falsely implicated in this case. In fact, at the earlier occasion, by mentioning same averments, identical complaint was given by the 2nd respondent/defacto complainant, but it was not taken on file. Against which, he approached this Court in Crl.O.P.No.11039 of 2015 seeking a direction directing the respondent police to register the complaint. On hearing both sides, this Court by an order dated 10.06.2015 gave a liberty in the following manner :-

“4. Under such circumstances, liberty is given to the petitioner to file a fresh complaint, as and when the opposite party cause trouble. On such complaint being given, the respondent police is directed to conduct enquiry and take action in accordance with law.”

He would submit that taking advantage of that order, again the 2nd respondent/defacto complainant gave the present false complaint. Based on that, without conducting proper investigation, the prosecution laid



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charge sheet, however there is no such occurrence was happened on 03.08.2015, besides, they are in possession of property and the same has also been observed by the Apex Court while granting the order dated 10.11.2022 for electricity connection. So, as on date, the petitioners are in lawful possession of the property and in order to harass them, the 2nd respondent/defacto complainant had given a false complaint in a second round of litigation. Hence, he prayed to quash the charge sheet initiated against the petitioners.

5. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent would submit that the petitioners have caused interference on the date of alleged occurrence. Hence, the 2nd respondent/defacto complainant gave a fresh complaint, however, he admits that the earlier proceedings in Crl.O.P.No.11039 of 2015, this Court granted liberty to file a fresh complaint, but thereafter, the petitioners have caused interference and harassment. Therefore, he gave a complaint against them.

6. Records perused. On seeing entire facts, it reveals that now the final report was filed, besides already there is a civil dispute between the



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petitioners and 2nd respondent/defacto complainant pending from the year of 2011 in O.S.No. 174 of 2011, wherein the 2nd respondent/defacto complainant claiming absolute right over the property and he is also contesting the suit. Even as per the plaint averments, the settlement deed and other documents relied by the petitioners/defendants claimed as fraudulent documents by the defacto complainant/plaintiff. Therefore, already there is a civil dispute pending between the parties in respect of property, it needs detailed investigation and it also needs detailed trial. Hence, I do not find any irregularity in the charge sheet initiated by the 1st respondent police against the petitioners and this Court is not inclined to quash the proceedings initiated against them. Accordingly, this Criminal Original Petition is dismissed. Furthermore, the 1st petitioner Kathirvel @ Sivaprakasam died on 10.11.2023, as such, the proceedings against 1st petitioner abates. Consequently, connected Criminal Miscellaneous Petition is closed.

31.01.2024

Index: Yes/No



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Internet: Yes/No
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To

1. Inspector of Police,
D-2 Chengalpattu Taluk Police Station,
Chengalpattu Dt.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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