



Crl.O.P.No.8004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.07.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.8004 of 2024
and
Crl.M.P.Nos.5812 & 5814 of 2024

- 1.Kaleel @ Sayath Kaleel
- 2.Anjeum @ Sayath Mohmath
- 3.Basha
- 4.Shek Husen
- 5.Safiyulla

..Petitioners/A1 to A5

/versus/

- 1.The State rep.by
Inspector of Police,
Chengam Police Station,
Thiruvannamalai District.

..Respondent/Complainant

- 2.Shayath Abthul Kayum

..Respondent/Defacto
Complainant

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in PRC.No.34 of 2023 on the file of the Hon'ble Judicial Magistrate, Chengam and quash the same.



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For Petitioners :Mr.T.Arockia Dass
For R1 :Mr.S.Udaya Kumar
Govt.ADvocate (Crl.Side)
For R2 :Mr.P.Balamurugan

ORDER

The petition is filed to quash the final report in P.R.C.No. 34 of 2023 arising out of investigation in Crime No. 348 of 2018.

2. The learned counsel appearing for the petitioners submitted that the case has been registered for the offences under Sections 147, 148 and 506(2) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 against the petitioners on the complaint given by one Shayath Abthul Kayum alleging that the petitioners formed unlawful assembly and damaged the fence put up by him, thereby caused loss to the property worth about Rs.1,41,015/-.

3. The contention of the petitioners is that it is the defacto complainant, who tried to put up fence and restrain the residents from



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having access to the public pathway and when it was questioned, the defacto complainant and his wife abused them with filthy language and threatened them with dire consequence and hence, the complaint was given on 13.04.2018 and the same was registered in Crime No.364 of 2018. Final report also filed against the defacto complainant and his wife for the offences under Sections 294(b) and 506(i) of IPC and the same is pending in C.C.No.108 of 2018. Further, the learned counsel appearing for the petitioners submitted that the petitioners have filed a suit in O.S.No.69 of 2018 and the same is pending. Pending disposal of the suit, in I.A.No.168 of 2018 interim order has been passed granting injunction restraining the petitioners from using the nine feet lane. Referring the pendency of the civil suit, the learned counsel appearing for the petitioners submitted that there cannot be criminal prosecution against the petitioner for the alleged damage to the property and the other offences.

4. The learned counsel appearing for the defacto complainant submitted that after proper demarcation of the boundary through the



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Tahsildar, fence was put up by the defacto complainant. The said fence was damaged by the petitioners on 07.04.2018 at about 10.30 p.m. In this connection, the complaint was given to the respondent police in Crime No.348 of 2018 and the same has now culminated in P.R.C.No.34 of 2023.

5. This Court on perusing the records finds that a piece of land which is claimed by the petitioners herein as the public pathway is claimed as private property of the defacto complainant. By ascertaining the boundary, the defacto complainant has put fence. Whereas, that has been objected by the petitioners and others. In this connection, there was a fight between the parties on 23.03.2018 at about 08.30 pm which has culminated in registration of the case in Crime No.364 of 2018 as against the defacto complainant and his wife. While so, on 07.04.2018 the said fence has been damaged by these petitioners, which is the subject matter of P.R.C.No.34 of 2023 pending on the file of the Judicial Magistrate, Chengam. Since the commission of cognizable offence namely, damage to the public property has been clearly made out from the material placed by



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the prosecution, this Court is of the view that the complaint cannot be quashed.

6. Accordingly, **this Criminal Original Petition is dismissed.**

The observation of this Court is only in deciding whether the matter is purely civil dispute, which is given criminal colour and not for any other purpose. Therefore, the trial Court shall independently look into the facts and evidence and pass orders in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

12.07.2024

Index:yes/no
Neutral Citation:yes/no
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To:

- 1.The Judicial Magistrate, Chengam.
- 2.The Inspector of Police, Chengam Police Station,
Thiruvannamalai District.



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DR.G.JAYACHANDRAN,J.

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