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CRL O.P. No.23520 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

The Hon'ble Mr.Justice P.DHANABAL

CRL OP.No.23520 of 2022
and
Cr1. M.P. No.15002 of 2022

1. Deva Arockiam S/o. Arokiya Samy
2. Madhan @ Madhan Kumar S/o. Shanmugam
3. S. Thomas S/o. Silor Mani ... Petitioners / Accused 1 to 3
Vs

1. **State represented by:-**

The Inspector of Police,
Mappedu Police Station,
Tiruvallur District.

.....1st Respondent / Complainant

2. Arun S/o. Govindasamy ... 2nd Respondent / Defacto
Complainant

PRAYER: - The Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for records in C.C. No.431 of 2022 on the file of the Judicial Magistrate No.II, Tiruvallur, Tiruvallur District and quash the same.

For Petitioner : Mr. M.P. Saravanan

For Respondents : Mrs. G.V. Kasthuri,
Additional Public Prosecutor



WEB COPY



CRL O.P. No.23520 of 2022

[for R1]

Mr. K. Gokulram [for R2]

ORDER

This petition has been filed to quash the proceedings in C.C. No.431 of 2022 on the file of the Judicial Magistrate No.II, Tiruvallur, Tiruvallur District.

2. The case of the prosecution is that on 07.10.2021, the defacto complainant lodged a complaint before the police stating that he had purchased the property comprised in S. No.12/2A to an extent of 1.16 acres and in Survey No.13/3A admeasuring to an extent of 1.10 acres through a Sale Deed in Doc. No.1262 of 2021 dated 22.04.2021. From the date of purchase, he was in possession and enjoyment of the property. While so, on 08.04.2021 at about 3.30 p.m., the petitioners trespassed to his land and stored the crushed stone in his land and when the same was questioned by the defacto complainant, the petitioners threatened him with dire consequences. Based on the above said complaint, FIR has been registered in Cr. No.475 of 2021 for the offences under Sections 447 and 506(i) of IPC. Thereafter, the 2nd respondent police



CRL O.P. No.23520 of 2022

investigated the case and filed the final report and the same was taken cognizance in C.C. No.431 of 2022 on the file of the Judicial Magistrate Court No.II, Tiruvallur District. Challenging the said taking of cognizance of the case in C.C. No.431 of 2022, the present petition is filed.

3. The learned counsel appearing for the petitioners would contend that he purchased the disputed property through a Sale Deed dated 22.04.2021 and the alleged occurrence is said to have been taken place on 08.04.2021. On the date of occurrence, the petitioners are the owners of the property and they are in possession of the property and therefore, Section 447 of IPC would not attract. As far as the offence under Section 506(i) of IPC is concerned, there is no any ingredient to constitute the offence and the allegations as per the FIR is that the petitioners threatened the defacto complainant and there is no specific word mentioned in the FIR. Therefore, there is no any evidence to constiute the offences under Sections 447 and 506(i) of IPC, but the 1st respondent without conducting proper enquiry, filed the final report and



CRL O.P. No.23520 of 2022

the same was also numbered as C.C. No.431 of 2022 before the Trial Court. Therefore, the pending proceedings in C.C. No.431 of 2022 are abuse of process of law and the same is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the State would contend that based on the complaint given by the 2nd respondent, the respondent police have registered the FIR in Cr. No.475 of 2021 for the offences under Sections 447 and 506(i) of IPC. The defacto complainant is the original owner of the said property and he purchased the property for a valuable consideration and he was in possession and enjoyment of the disputed property and while the defacto complainant is in possession and enjoyment of the property, the petitioners herein have stored the crushed stone by trespassing into the property and when the same was questioned by the defacto complainant, they caused criminal intimidation to the petitioners, thereby, FIR has been registered and thereafter, they conducted elaborate investigation and based on the investigation, they filed the final report and as per the final report, there is prima facie material available to proceed with the



CRL O.P. No.23520 of 2022

case with available records and hence the present petition is liable to be dismissed.

5. The learned counsel appearing for the 2nd respondent / defacto complainant would submit that he purchased the property on 22.04.2021. On 08.04.2021, the petitioners had stored the crushed stone into the property of the defacto complainant and when the same was questioned by the defacto complainant, they caused criminal intimidation and thereby, he lodged complaint before the 1st respondent and based on the complaint, the 1st respondent police have registered the FIR and thereafter, investigated the case and filed final report and as per the final report, there are prima facie materials available to constitute the offences and therefore, the petitioners have to face the trial and hence the present petition is liable to be dismissed.

6. Heard the arguments and perused the materials available on record.



CRL O.P. No.23520 of 2022

7. In this case, it is an admitted fact that there is a dispute between the parties in respect of the property in Survey Nos.12/2A and 13/3A. According to the petitioners, they purchased the property for a valuable consideration through Sale Deed dated 22.03.2021 and according to the defacto complainant, he purchased the property for a valuable consideration through a Sale Deed dated 22.04.2021. The alleged occurrence was said to have been taken place on 08.04.2021. It is also an admitted fact that the petitioners herein have filed a Civil Suit in respect of the property and thereby, there is a dispute in respect of the title of the property. Therefore, there is a dispute in respect of the possession of the property.

8. Since there is a dispute in respect of the tile and possession of the property, the main ingredient to constitute the offence under Section 447 of IPC, there must be possession by one party and another party with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property. In this case, the possession itself is in question and no materials that the defacto complainant was in possession of the property, hence the Section 447 of IPC would not attract. As far as



CRL O.P. No.23520 of 2022

Section 506(i) of IPC is concerned, as per the available records, there is no ingredient to constitute the offence and there is no evidence to prove that the words uttered by the petitioners caused fear in the minds of the defacto complainant and the allegation as against the petitioners are only vague and bald allegations.

9. It is well settled law that based on the vague and bald allegations, the petitioners cannot face the trial. On careful perusal of the documents and charge sheet filed by the 1st respondent, there are no materials to constitute the offences under Sections 447 and 506(i) IPC. Therefore, the pending proceedings in C.C. No.431 of 2022 on the file of the Judicial Magistrate No.II, Tiruvallur, Tiruvallur District is abuse of process of law. Further, it is an admitted fact that there is a civil suit pending between the parties in respect of the title and possession of the property. Therefore, the Civil Court is a competent Court to decide the title and possession of the property. While so, at this stage, this Court cannot find out the possession of the property to attract provision under Section 447 of IPC.



CRL O.P. No.23520 of 2022

10. In view of the above discussions, this Court is of the opinion that this petition is to be allowed and accordingly, the Criminal Original Petition is allowed by quashing the proceedings in C.C. No.431 of 2022 on the file of the Judicial Magistrate No.II, Tiruvallur, Tiruvallur District. Consequently, connected miscellaneous petition is closed.

29.08.2024

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

P.DHANABAL,J
mjs

To

1. The Judicial Magistrate No.II, Tiruvallur, Tiruvallur District.
2. The Inspector of Police,
Mappedu Police Station,
Tiruvallur District.
3. The Public Prosecutor, High Court, Madras.



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CRL O.P. No.23520 of 2022

CRL.O.P. No.23520 of 2022

29.08.2024