



Crl.O.P.No.21274 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.21274 of 2024 and Crl.M.P.No.12192 of 2024

1. Natarajan
 2. Thangaraj
 3. Kavitha
 4. Dr.Prasanth
- ... Petitioners

Vs.

1. The Deputy Superintendent of Police
Rasipuram, Namakkal, District
2. The Inspector of Police
Ayilpatty Police Station, Namakkal District
Crime No.190 of 2019

3. Jayanth
- ... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to call for the records with respect of C.C.No.39 of 2024 on the file of Judicial Magistrate, Rasipuram and quash the same.

For Petitioner	: Mr.R.Nalliyapppan
For Respondents 1 and 2	: Mr.S.Sugendran
	Additional Public Prosecutor
For 3 rd Respondent	: No Appearance



CrI.O.P.No.21274 of 2024

ORDER

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This Criminal Original Petition has been filed by the petitioners to quash the case in C.C.No.39 of 2024 on the file of Judicial Magistrate, Rasipuram.

2. The case of the petitioners is that the 3rd respondent had leased out his Sago Factory to the petitioners for a period of 8 years and after completion of the lease period, the petitioners vacated the premises. Thereafter, the 3rd respondent lodged a complaint against the petitioners stating that the petitioners damaged the machineries and also taken some articles and vacated the premises. On receipt of the complaint, the 2nd respondent police registered a case in Crime No.190 of 2019 and after completion of investigation, filed a negative final report stating as "mistake of fact". Later, on the direction of the 1st respondent, once again the respondent police reopened the case and filed charge sheet against the petitioners in C.C.No.39 of 2024 before the Judicial Magistrate, Rasipuram, for the offences under Sections 403, 424, 427, 506(i) IPC. The contention of the petitioners is that the order of the Superintendent of



Crl.O.P.No.21274 of 2024

Police would clearly show that the earlier Investigating Officer had closed the complaint as "mistake of fact" and without even filing a report to the Magistrate, the respondent police, reinvestigated the matter and filed the charge sheet, which is against the provisions of law. Therefore, the same has to be quashed.

3. The learned Additional Public Prosecutor appearing for the respondents police submitted that initially the case investigated by Mr.Ramakrishnan, who closed the case as "Mistake of Fact" vide R.C.S. No.25 of 2019, however, the same was not filed before the Court and was also not served on the defacto complainant. Subsequently, the defacto complainant lodged a complaint before the Deputy Superintendent of Police/1st respondent, based on which, the Deputy Superintendent of Police issued a memo to the respondent police to re-investigate the case. Based on his direction, one Veludevan, the then Inspector of Police, take up the case for re-investigation and after completion of investigation filed the charge sheet and the same was



CrI.O.P.No.21274 of 2024

taken on file in C.C.No.39 of 2024 by the Judicial Magistrate, Rasipuram.

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Now the case is posted on 07.01.2025 for examination of witnesses L.W.1 to

L.W. 3. Therefore, he prayed for dismissal of this petition.

4. Heard both sides and perused the materials available on record.

5. A perusal of records shows that, initially the case was investigated by one Mr.Ramakrishnan, I.O. who closed the case as "Mistake of Fact". However, no R.C.S. (Referred Charge Sheet) was not filed before the Court and before filing of the R.C.S. before the concerned Court, the Deputy Superintendent of Police has intervened and changed the Investigating Officer and subsequently, one Mr.Veludevan, I.O. investigated the case and after completion of investigation, has filed the charge sheet and the same was also taken on file.

6. The negative charge sheet was neither filed before the Court, nor served on the defacto complainant. Only after filing of the negative charge sheet before the Court, the copy will be served on the defacto complainant and



Cr.L.O.P.No.21274 of 2024

only thereafter, the defacto complainant can opt for protest proceedings. In this case, before filing of the negative charge sheet before the Court, the Superintendent of Police has intervened and based on his direction, the case has been re-investigated and charge sheet has also been filed before the Court. Now the case is pending trial. Under these circumstances, the petitioners are not entitled to the relief sought for.

7. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

8. The petitioners are at liberty to take all their defence before the trial Court.

28.11.2024

Index : Yes / No

Speaking Order : Yes/No

Neutral Citation Case : Yes/No

ksa-2



CrI.O.P.No.21274 of 2024

To
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1. The Deputy Superintendent of Police
Rasipuram, Namakkal, District
2. The Inspector of Police
Ayilpatty Police Station, Namakkal District
Crime No.190 of 2019
3. The Public Prosecutor
High Court of Madras



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CrI.O.P.No.21274 of 2024

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.No.21274 of 2024

28.11.2024