



Crl.O.P.No.4758 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM:

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

Crl.O.P.No.4758 of 2022

and

Crl.M.P.No.2502 of 2022

1. N.M.Shanmugam
2. S.Malathi

... Petitioners

Versus

The State rep. by
1. The Sub-Inspector of Police,
Town Police Station,
Karaikal.
(Crime No.326 of 2019)

2. N.M.Thiyagarajan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the
Code of Criminal Procedure, to call for the records relating in C.C.



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No. 49 of 2020 on the file of Addl. District Munsif cum Judicial
Magistrate Court, Karaikal and quash the same.

For Petitioners : Mr.R.Thirumoorthy
For Respondents : Mr.K.S.Mohandoss,
Public Prosecutor (Pudy.) for R1
Ms. S.Renuka Devi for
Mr.P.Malaravan for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 49 of 2020 on the file of learned Addl. District Munsif cum Judicial Magistrate Court, Karaikal.

2. Heard both sides.

3. The petitioners are ranked as A1 and A2 in the F.I.R. in Crime No.326 of 2019 registered for the offence under Sec.448, 294(b), 323, 506(ii) r/s 34 of I.P.C. Subsequently, the charge sheet has been filed and



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the same was taken on file in C.C.No.49 of 2020 on the file of learned Addl. District Munsif cum Judicial Magistrate, Karaikal and the same is pending. Now, the petitioner had filed this petition praying to quash the said charge sheet.

4. The learned counsel for petitioners would submit that there was a dispute in respect of enjoyment of property. While so, the 2nd respondent/defacto complainant gave a complaint stating that on 16.12.2019 the petitioner and his wife abused him and his family members. Hence, a complaint was lodged for the aforesaid offences. According to 2nd respondent, the petitioners are in possession of property and inspite of a civil suit, they have attempted to trespass into his property and abused him. Subsequently, the final report was also filed after the completion of investigation in C.C.No. 49 of 2020 and the same is pending. Now, the petitioners have approached this court to quash the said proceedings as there is no basic materials to attract the said offence and no such occurrence was happened as alleged by the 2nd respondent/defacto complainant.



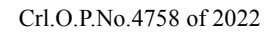
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5. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent would submit that both were brothers and there is a dispute with regard to enjoyment of property, more particularly, the compound wall and a civil suit is also pending as per the investigation revealed. He would also submit that in a civil suit, this property along with other properties were decreed in favour of defacto complainant. Aggrieved that, they attempted to trespass into the property. Hence, he prayed to dismiss this petition.

6. By way of reply, the learned counsel for petitioners would submit that against the civil proceedings, they have preferred an appeal.

7. On seeing entire facts, it reveals that between brothers, there is a dispute in respect of a compound wall and already there is a civil suit is also pending. Hence, the petitioners are advised to work out their remedy in the appeal and not to cause any unlawful enjoyment of property of 2nd respondent/defacto complainant. Furthermore, there is no materials to



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To

- <https://www.mhc.tn.gov.in/judis>



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T.V.THAMILSELVI, J.

rpp

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