



CrI.O.P.No.26548 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

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

CrI.O.P.No.26548 of 2022

and

CrI.M.P.No.16341 of 2022

1. Antony Cruz
2. Jyothi Francis
3. J.Manobala @ Manobalaji

... Petitioners

Versus

1. State rep. by
The Inspector of Police,
Poonamallee Police Station,
Ambattur, Chennai City.
(Crime No.448 of 2022)

2. Jaine Painyammal

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.448 of 2022 on the file of Inspector of Police, Poonamallee Police Station, Ambattur, Chennai and quash the same.



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For Petitioners : Mr.M.Vinoth
For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1
R2 – No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.448 of 2022 on the file of 1st respondent police.

2. Heard both sides.

3. The petitioners are ranked as accused 1 to 3 in the F.I.R. in Crime No.448 of 2022 registered for an offence under Sec.147, 448, 294(b) and 427 of I.P.C. based on the complaint given by the 2nd respondent/defacto complainant.

4. The 1st and 2nd petitioners are father and brother of 2nd respondent/defacto complainant. The 3rd petitioner is an advocate appearing for petitioners 1 and 2. Admittedly, the 2nd respondent/defacto complainant is daughter of 1st petitioner. The learned counsel for petitioners would submit that 1st petitioner is the absolute owner of the



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property, wherein the 2nd respondent/defacto complainant, who is his daughter was permitted to reside during Covid-19 pandemic period on sympathetic ground. After taking possession of the property, she started to give torture to the 1st petitioner and also compelled them to settle the property in her favour at the instigation of her family members. But, the 1st petitioner is not inclined to settle the property in her favour. So, the 1st petitioner along with his son/2nd petitioner were abused by the 2nd respondent/defacto complainant and also she used to give torture to them. Hence, the relationship is not cordial between them. Taking advantage of the same the 2nd respondent/defacto complainant gave a false complaint and raised a vexatious claim against the 1st petitioner as well as his son and also his advocate. Based on that, F.I.R. in Crime No. 448 of 2022 was registered for an offence under Sec.147, 448, 294(b) and 427 of I.P.C. In fact, no such occurrence was happened and as on date, she had unlawfully occupied the premises and causing all sorts of torture to the 1st petitioner and his family members. The learned counsel would also submit that F.I.R. lodged against the petitioners are vexatious one and no such occurrence was happened in the public place. Hence, the main



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ingredient for the offence alleged in the F.I.R. in Crime No.448 of 2022 has not been attracted and without any basic ingredients, the 1st respondent police initiated the proceedings against them. Therefore, he prayed to quash the proceedings as it is a vexatious claim.

5. Despite the name of 2nd respondent's name printed in the cause list, there is no representation on his side. The learned Government Advocate (Crl. Side) appearing for 1st respondent admits the fact that the 2nd respondent/defacto complainant is the daughter of 1st petitioner and also occupied a portion of the property. He would also submit that the investigation is at the initial stage.

6. On seeing the facts, it reveals that 1st petitioner is aged about more than 71 years and he is father of 2nd respondent/defacto complainant. The property also belong to him by way of purchase of the year of 2006 and sale deed to that effect also enclosed in the typed set of papers. So, admittedly, as on date, he is owner of property. According to him, now the 2nd respondent/defacto complainant, who is his daughter is in unlawful occupation of the property and subsequently, a dispute was arose between them. which is civil in nature and the same is amounting



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to abuse of process of law. Moreover, the entire facts reveals that with an intention to get the property, she gave a complaint against her father, her brother and also their advocate, which is amounting to clear case of abuse of process of law. Petitioner entitled to work out his remedy for eviction as per law. Hence, the proceedings initiated against them is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings initiated against the petitioners in F.I.R. in Crime No.448 of 2022 is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

24.01.2024

Index: Yes/No
Internet: Yes/No
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To

1. The Inspector of Police,
Poonamallee Police Station,
Ambattur, Chennai City.
2. The Public Prosecutor, High Court, Madras.



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T.V.THAMILSELVI, J.

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