



Crl.O.P(MD)No.2083 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P(MD)No.2083 of 2023
and Crl.MP(MD) No.1830 of 2023

1. Alex
2. Arockiam @ Arockiaraj
3. Amirtham Ponnudurai @ Ameert
4. Barnaboss @ Barnabas
5. John @ John Babu
6. Margreat and Masialourdu
7. Rasathi

... Petitioners

Vs

1. The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District. (Crime No.574/2020).

2. Jeyalekha

... Respondents



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PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C, to call for the records in Crime No.574/2020 on the file of the R1 and to quash the same in so far as the petitioners/accused concerned.

For Petitioner : Mr.C.Saravanakumar

For Respondents :Mr.A.Albert James (R1)
Government Advocate (Crl.Side)

No Appearance (R2)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Cr.No. 574/2020 pending investigation on the file of the first respondent Police Station.

2.The second respondent, who is the defacto complainant gave a complaint before the first respondent Police stating that she is the wife of one Rajendran and that she was in possession and enjoyment of the said property and the accused persons attempted to trespass into the property and attacked the de facto complainant and also abused her in filthy language and took away certain articles from the property. Based on the complaint, the



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FIR came to be registered by the first respondent for the offence under Sections 147, 442, 427, 380, 294(b), 506(2) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

3.Heard, the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent. Though the name of the second respondent is printed in the cause list, there is no representation on her behalf either in person or through the counsel.

4.The second respondent set the law in motion claiming that she is the legally wedded wife of Rajendran and that in the property that belonged to the said Rajendran, she was in possession and enjoyment of the same and that the accused persons attempted to grab the property and caused threat and attacked the defacto complainant and took away certain articles.

5.The core issue to be considered is as to whether the second respondent is the legally wedded wife of Rajendran. Only if this ingredient is satisfied, the second respondent will have the locus to prosecute this case.



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6.On going through the records, it is seen that the legal heirs of the deceased filed a suit in O.S.No.95 of 2021 on the file of Principal District Munsif, Ambasamuthiram to declare them as the legal heirs of the deceased Rajendran. In the suit, the second respondent was made as the first defendant and the second respondent contested the suit. The Principal District Munsif, Ambasamuthiram by Judgment, dated 29.08.2022 declared that the plaintiffs in that suit are the legal heirs of the said Rajendran.

7.The second respondent also filed an independent suit in O.S.No. 173 of 2020 to declare her as the legal heir of Rajendran. This suit was dismissed for default by Judgment, dated 09.06.2022 on the file of Principal District Munsif, Ambasamuthiram.

8.It is also seen from the records that the second respondent claiming herself to be the wife of one Sivasamy Nathan, filed a suit for herself and on behalf of her daughter in O.S.No.153 of 2022.



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9.It is therefore clear from the above that the second respondent has not proved before any forum that she is the wife of the deceased Rajendran. In fact, the second respondent herself states that she is the wife of one Sivasamy Nathan in yet another suit filed in O.S.No.153 of 2022. Accordingly, the very locus standi of the second respondent to set the criminal law in motion is now under question.

10.If the second respondent is not the legally wedded wife of the deceased Rajendran, she cannot claim any right over the property belonging to him and therefore, the allegations made against the petitioners as if, they tried to knock off the property and caused threat to her etc., becomes unsustainable.

11.The petitioners also seems to have given a complaint against the second respondent which is pending in FIR in Cr.No.573/2020.

12.In the considered view of this Court, the continuation of criminal proceedings as against the petitioners will result in abuse of



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process of law, which requires the interference of this Court. This Court is inclined to quash both the FIRs in Cr.No. 573 and 574 of 2020 pending on the file of the first respondent Police.

13. Accordingly, this Criminal Original Petition stands allowed, thereby, both the FIRs in 573 and 574 of 2020 pending on the file of the first respondent Police are quashed. Consequently, connected miscellaneous petition is closed.

07.11.2024

Internet :Yes
Index :Yes/No
NCC :Yes/No
PNM

To

1. The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District. (Crime No.574/2020).

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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N.ANAND VENKATESH, J.

PNM

ORDER IN
CrI.O.P(MD)No.2083 of 2023
and CrI.MP(MD) No.1830 of 2023

07.11.2024