



CRL OP(MD). No.2472 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.2472 of 2022
and Crl.M.P(MD) No.1825 of 2022**

1. Chandrasekar

2. Krishnakumari

... Petitioners

Vs

1. The State through,
Inspector of Police,
Vadipatti Police Station,
Madurai District.
(Crime No.458/2016).

2. Meenatchi Sundaram
S/o. Singamreddy,
Chinnana Kovil Street,
Neerethan,
Vadipatti Taluk,
Madurai District.

... Respondents

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to call for the records pertaining to FIR No.458/2016, dated 17.09.2016, on the file of the 1st Respondent, Vadipatti Police Station, Madurai District and quash the same.



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For Petitioners : M/s. R. Murugappan

For Respondents : M/s. S. Manikandan for R1
Government Advocate (Crl.Side)

No appearance for R2

ORDER

This petition has been filed to quash the FIR in Crime No. 458/2016, which was filed for the offences under Sections 147, 148, 341, 427 and 506(ii) IPC and Section 4 of TNPPDL Act on the file of the respondent police.

2.It is the case of the prosecution that the petitioners without valid title and interest, trespassed into the property of the 2nd respondent and assaulted his son and hence, the complaint.

3.The learned counsel for the petitioners would submit that the property stands in the name of the 2nd petitioner and the 2nd respondent is none other than the brother of the 1st petitioner. He would further submit that since the 2nd respondent lost before the civil court, by giving criminal colour, the present malicious complaint has been preferred and the



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petitioners have nothing to do with the alleged offence. Hence, prays for interference.

4. The learned Government Advocate (Crl. Side) would submit that the property in question is a joint family property, for which, civil suits are filed and the same were decreed in favour of the 1st petitioner, against which, the 2nd respondent preferred an appeal and the appeal suit was also decreed in favour of the first petitioner, against which, the 2nd respondent preferred second appeal before this court, which also came to be dismissed in the year 2019. However, he would submit that the 1st petitioner and 2nd respondent being siblings, the first petitioner has to enter the property in the manner known to law and not by any other means. He would further submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



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5. It is seen from the complaint that the petitioners entered into the property of the de-facto complainant and damaged the crops worth about Rs.25,000/- and said to have threatened the de-facto complainant. Therefore, this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** wherein, the Hon'ble Apex Court held as under :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any



precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a



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just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash the case in Crime No.458/2016 pending on the file of the respondent police. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

05.02.2024

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TO

1. The Inspector of Police,
Vadipatti Police Station,
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M.DHANDAPANI. J

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**ORDER
IN
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