



CRL OP(MD). No.2872 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 06.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.2872 of 2022 and
Crl.M.P.(MD) Nos.and 2158 and 2159 of 2022**

1. Amose
2. Parameshwaran
3. Velthai
4. Karikalan
5. Uma
6. Gurusamy
7. Pitchaimani

... Petitioners

Vs

S.M.Raja

... Respondent

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to pleased to call for the records relating to the private complaint filed in C.C.No.32 of 2020 on the file of the Learned Judicial Magistrate court, Aundipatti and quash the same as illegal as against the petitioners.

For Petitioners : M/s.R. Karunanithi
For Respondent : M/s. K. Gokul

ORDER

This petition has been filed to quash the private complaint in C.C.No.32 of 2020 on the file of the Learned Judicial Magistrate court, Aundipatti against the petitioners.



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2.The case of the prosecution is that the first petitioner owned certain properties. He has sold the same to the other petitioners under various sale deeds on various occasions. While so, the respondent/de-facto complainant has given a complaint alleging that the first petitioner along with his wife has fabricated documents as if they have purchased the property from the complainant and threatened to evict from the property. Hence, a complaint has been given to the respondent police, however, since it was closed as mistake of fact, the respondent preferred the private complaint, which was taken in C.C.No.32/2020 and while dismissing the said petition for other offences, cognizance was taken for an offence under Section 506(i) IPC, for quashing which, the petitioners are before this court.

3.The learned counsel for the petitioners would submit that the first petitioner is the owner of the subject property and he has sold the same to the other petitioners and they are enjoying the said properties from the date of their purchase. While so, the respondent has preferred a complaint as if the petitioners have threatened him with dire consequences, which was taken cognizance by the jurisdictional court.



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He would further submit that, according to the respondent, the alleged offence is said to have been committed by the petitioners under Section 506(i) IPC and in order to constitute the said offence, there is no ingredients available with the respondent and in support of his case, no documents whatsoever have been placed before this court. The learned counsel would further submit that if the respondent is aggrieved, he has to ventilate his grievance only by filing a civil suit before the civil court, instead, he has given a criminal colour by giving the private complaint. To substantiate his case, the learned counsel has also placed reliance upon the decision in the case of ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426***. For these reasons, the learned counsel prays for interference.

4.The learned counsel for the respondent however would submit that the petitioners have threatened the respondent with dire consequences and in order to substantiate the same, the video footage and other documents were available and hence, prays for dismissal of the petition.



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5.This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

6.From the records, it is seen that the first petitioner being the owner of the property has sold the disputed property to the other petitioners under various sale deeds on various occasions. If it is the case of the respondent that the petitioners have indulged in fabricating documents and grabbed the property by threatening, then, the recourse available to the respondent is by way of filing a civil suit. It is also brought to the notice of this court that the respondent has rightly approached the civil court. When the civil court is seized of the matter, filing a criminal complaint amounts to double jeopardy. However, cognizance was taken only for the offence under Section 506(I) IPC. In order to prove the same, it is incumbent on the part of the respondent to produce necessary/available documents. However, mere filing of a photograph would not sufficient to hold that the petitioners have threatened the respondent and thus committed an offence under Section 506(I) IPC. It is also to be seen that the complaint preferred before the respondent police, though was registered, was closed as mistake of fact.



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The respondent has not even produced the sale agreements with regard to the property in question to show that the petitioners in order to grab the property have threatened him. For all these reasons, this court holds that the offence under Section 506(I) IPC is not constituted against the petitioners and there are no materials produced before this court to show that the petitioners have threatened the respondent.

7. In the result, the criminal original petition is allowed and the proceedings in C.C.No.32/2020 pending on the file of the Judicial Magistrate, Aundipatti, is hereby quashed. Consequently connected Miscellaneous Petitions are closed.

06.02.2024

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TO
The Judicial Magistrate Court,
Aundipatti.



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M.DHANDAPANI. J

RR

**ORDER
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