



CRL OP(MD). No.3930 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 13.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.3930 of 2022 and
CrI.M.P.No.2868 of 2022**

1. Malathi

2. R. Anandhan

3. Sivakumar

... Petitioners

Vs

1. State Represented by
The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
Crime No.76 of 2022

2. Chandra Sekar (47/M)
S/o. Bose,
Kamarajarpuram E.B. Colony
Batlagundu,
Dindigul District.

... Respondents

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records relating to the proceedings in Crime No. 76 of 2022 dated 28.01.2022 on the file of the 1st respondent police and quash the same.



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For Petitioners : M/s. T. Antony Arul Raj
For Respondents : M/s. S. Manikandan for R1
Additional Public Prosecutor

M/s. S.C. Herold Singh for R2

ORDER

This Criminal Original Petition is filed under Section 482 Cr.P.C. to quash the case in Crime No. 76 of 2022 dated 28.01.2022 on the file of the 1st respondent police.

2.The case of the prosecution is that the first petitioner is the wife of the 2nd petitioner and the 3rd petitioner is the brother of the 1st petitioner. It is alleged that for the construction of a house, the 2nd respondent was engaged by the petitioners 1 and 2. Accordingly, the de-facto complainant has completed the construction. However, it is alleged that due to price hike, the de-facto complainant had demanded more amount per sq. feet., which was requested by him, however, the petitioners have threatened him. Hence, a complaint came to be lodged by the 2nd respondent, for quashing which, the petitioners are before this Court.



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3.The learned counsel for the petitioners would submit that the petitioners have nothing to do with the alleged offences. He would further submit that though the petitioners 1 and 2 have entered into an agreement with the 2nd respondent to complete the construction of their house for a sum of Rs.1,500/- per sq. feet, after completion, the 2nd respondent hiked the price and demanded more amount contra to the agreement entered into. It is contended that the third petitioner being the brother of the 1st petitioner, he has no way connected with the alleged construction and his name has been included in order to harass the family of the petitioners. It is further contended that initially when the complaint came to be lodged, the de-facto complainant had not included the petitioners 2 and 3, however, in the case registered subsequently, as an improved version, the names of the petitioners 2 and 3 were included, which shows that the de-facto complainant is improving his version day by day in order to give complaint and in order to implicate the petitioners herein. On these grounds, the learned counsel prays for quashing the case against the petitionres.



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4. The learned Government Advocate for the respondent police would submit that on the complaint given by the 2nd respondent, the present case has been registered under Sections 294(b), 323, 406 and 420 IPC against the petitioners. He would further submit that there are materials available against the petitioners and at the threshold, the FIR cannot be quashed. Hence, he prays for dismissal of the petition.

5. The learned counsel for the 2nd respondent/de-facto complainant would submit that due to price hike, the 2nd respondent has invested more amount while constructing the house property of the petitioners 1 and 2. He would further submit that since the 2nd respondent has incurred loss, in order to compensate the same, the 2nd respondent has sought for more amount and hence, it cannot be stated that it is exorbitant and against the agreement entered into. Hence, prays for investigation and sought for dismissal of the petition.

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



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7. It is pertinent to note that the petitioners 1 and 2 have constructed house and an agreement has been entered into with the 2nd respondent, who is an building contractor and the said agreement has also annexed in the typed set of papers. It is seen from the agreement that Rs.1,500.- was fixed per sq. feet for construction of house alone, however, for other construction, such as sceptic tank, compound wall, staircase and water tank, an extra amount of Rs.950/- was fixed per sq. feet. Accordingly, the petitioners 1 and 2 have paid the construction cost of Rs.12 lakhs and for other construction also necessary amount has been paid. While so, when the construction was over, stating price hike, the 2nd respondent had sought for additional amount of Rs.5,50,000/-. However, it is the case of the petitioners that the said amount was demanded without any justification and which is also against the terms of agreement.

8. It is also to be noted that the agreement was entered into only between the 2nd respondent and the first petitioner. However, including the petitioners 2 and 3 when they were not even the agreement holders is



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baseless. If at all it is the case of the 2nd respondent that additional amount has to be paid, he has to approach the appropriate forum, instead, filing of criminal complaint is bad in law. When the agreement itself is for construction of house and an agreement has been rightly entered into and amount has also been paid, filing of complaint against the petitioners is baseless. It is also to be borne in mind that initially the complaint was given only by including the 1st petitioner alone. However, in the improved version, the petitioners 2 and 3 have been included and the case has been registered, when they have no role to play in the said agreement.

9. As far as the offences are concerned, as far as Section 294(b) IPC is concerned, it is not the case of the 2nd respondent that he has been abused by the petitioners by using filthy language and the circumstances under which, these offences had happened; with regard to Section 323 IPC, there is no wound certificate produced for the injury sustained by the 2nd respondent; for offences under Sections 406 and 420 IPC, there is no material whatsoever produced to satisfy the ingredients of Sections 406 and 420 IPC.



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10. It is also the case of the petitioners that they have also preferred a complaint against the 2nd respondent, which was not registered and only CSR has been given. When the complaint given by the 2nd respondent was registered, it is the duty of the respondent police to enquire about the complaint given by the petitioners also, which has not been done so in the present case. For all these reasons, the allegations against the petitioners are baseless and the case against the petitioners has to be necessarily quashed.

11. Accordingly, the criminal original petition is allowed and the case in Crime No.76/2022 against the petitioners is quashed. Consequently connected Miscellaneous Petition is closed.

13.02.2024

NCC : Yes/No
Index : Yes/No
RR
TO
The Inspector of Police,
Batlagundu Police Station,
Dindigul District.

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M.DHANDAPANI. J

RR

**ORDER
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