



CrI.O.P.(MD)No.5455 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.5455 of 2022

and

CrI.M.P.(MD).No.3857 of 2022

1. Stephenson

2. K.S.Sathiadas

... Petitioners/A1 & A2

Vs.

1.The Sub-Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
(CC.No.180 of 2019).

... 1st Respondent/Complainant

2.Jeyakumar

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in C.C.No. 180 of 2019 pending before the learned Judicial Magistrate No.II, Kuzhithurai in Crime No.556 of 2016 dated 26.12.2016 on the file of first respondent for the offences punishable under Sections 108, 294(b), 341 and 506(ii) of IPC and quash the same as illegal.

For petitioners : Mr.Louis S

For R-1 : Mr.P.Kottaichamy,
Government Advocate (Criminal Side)

For R-2 : Mr.R.Karunanidhi



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.180 of 2019 pending before the learned Judicial Magistrate No.II, Kuzhithurai.

2.The case of the prosecution is that the properties in Survey No.1546A and Re-Survey No.21/7 and Survey No.1538 and Re-Survey No.20/10 and 32/4B of Killiyur Village, Vilavancode Taluk, Kanyakumari District are belongs to the second petitioner and the same was purchased by the defacto complainant for a sum of Rs.22,71,790/-, in which, Rs.18,00,000/- was paid by the defacto complainant as advance. When the defacto complainant approached the second petitioner for giving remaining sale amount of Rs.4,71,790/- and for execution of sale deed, he refused. In such circumstance, on 19.07.2016, a complaint was made by the defacto complainant before the respondent Police, stating that the petitioners herein trespassed into the property in dispute and cut the standing trees. Pending the above enquiry, on 27.11.2016, the petitioners trespassed into the said property and seperated the total land into plots using JCB vehicle and when the same was questioned by the defacto complainant on 28.11.2016, the petitioners threatened the defacto complainant and tried to attack him. Hence, the second respondent made



a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.556 of 2016 against the petitioners and the respondent Police conducted an investigation and on completion of investigation, the charge sheet has been filed before the learned Judicial Magistrate No.II, Kuzhithurai and the same was taken cognizance in C.C.No.180 of 2019.

3.The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners. Actually, the first petitioner purchased the said property from the second petitioner through registered sale deed, dated 23.12.2016, thereafter only, the first petitioner entered into the said property.

4.The learned Government Advocate (Crl. Side) would 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 petitioners 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.In the above circumstances, the trial Court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.

6.For the reasons aforesaid, this Court finds no ground or scope to quash in C.C.No.180 of 2019 pending before the learned Judicial Magistrate No.II, Kuzhithurai. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.At this juncture, the learned counsel appearing for the petitioners would submit that this Court may consider to dispense with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is



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dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

28.02.2024

Index : Yes/No

Internet : Yes/No

Indu

To

- 1.The learned Judicial Magistrate No.II, Kuzhithurai.
- 2.The Sub-Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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