



Crl.O.P.(MD)No.15696 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.12.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.15696 of 2022

and

Crl.M.P.(MD) Nos.10352 and 10355 of 2022

1.Mahalingam

2.Anuradha

3.Ravichandran

4.Balu

... Petitioners / Accused Nos.1 to 4

Vs.

1.The State represented by
The Inspector of Police,
Swamimalai Police Station,
Thanjavur District.
(Crime No.52 of 2017)

...1st respondent / Complainant

2.Thiruganam

...2nd respondent / Defacto

Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the C.C.No. 347 of 2021 pending on the file of the learned Judicial Magistrate No.II, Kumbakonam and quash the same.

For Petitioners : Mr.K.Mahendran



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For R1 : Mr.S.Ravi,
Additional Public Prosecutor
For R2 ; Mr.T.R.Subramanian

ORDER

This petition has been filed challenging the proceedings in C.C.No.347 of 2021 pending on the file of the learned Judicial Magistrate No.II, Kumbakonam.

2. The 2nd respondent gave a complaint to the 1st respondent to the effect that on 07.02.2017 at about 5.00 a.m., the 2nd respondent heard some sound and he went to his land, he found accused persons and they were illegally removing 7 pipes belonging to the 2nd respondent and other building materials that were kept for erecting a borewell. When the 2nd respondent questioned the same, the accused persons are said to have threatened the 2nd respondent with dire consequences and abused him in filthy language.

3. Based on the complaint given by the 2nd respondent, an FIR came to be registered in Crime No.52 of 2017. This FIR was registered for offence under Sections 294(b), 506(ii) and 379 of IPC. In the course



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of investigation, the investigation officer came to a conclusion that the charge under Section 379 cannot be sustained and hence, an alteration report was filed and the offence was altered to under Sections 294(b), 506(ii) and 427 of IPC. On completion of investigation, the police report was filed before the Court below and the same has been taken on file in C.C.No.347 of 2021.

4. Heard the learned counsel on either side and perused the materials placed on record.

5. It is seen from records that there is a civil dispute between the accused persons and the defacto complainant. The same is evident from the suit that was filed by the 2nd petitioner / Anuradha in O.S.No.13 of 2013. Apart from that, the 2nd respondent herein filed a suit in O.S.No. 105 of 2013 before the learned Additional District Court (FDC), Kumbakonam seeking for the relief of specific performance. This suit was dismissed by judgment and decree dated 29.11.2016. Aggrieved by the same, an appeal was filed before this Court in A.S.(MD).No.15 of 2017. This Court by judgment and decree dated 13.04.2022 allowed the



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appeal and set aside the judgment and decree passed in suit and remanded the matter back to the file of the Trial Court.

6. Even when the FIR was registered, the petitioners came to this Court seeking for the quash of FIR by filing Crl.OP(MD).No.2969 of 2017. While dealing with the same, this Court was convinced with the fact that there was a civil dispute. However, considering the allegations made by the 2nd respondent as if the movable properties were stealthily removed from the property, this Court did not want to interfere with the FIR. Now that the prosecution itself has come to a conclusion that no offence under Section 379 of IPC is made out and the final report itself has been filed only for offence under Sections 294(b), 506(ii) and 427 of IPC, it is quite evident that a civil dispute is now attempted to be given a criminal colour. None of the offences are made out against the petitioners and the continuation of the criminal proceedings against the petitioners will only result in abuse of process of law.

7. In the light of the above discussion, the proceedings in C.C.No. 347 of 2021 pending on the file of the learned Judicial Magistrate No.II,



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Kumbakonam hereby quashed and this criminal original petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

04.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate No.II,
Kumbakonam.
2. The Inspector of Police,
Swamimalai Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

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Dated: 04.12.2024