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CrI.O.P.(MD)No.16120 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.16120 of 2022

and

CrI.M.P(MD).Nos.10674 and 10676 of 2022

1.Surendran

2.Ramesh

3.Satheesh

4.Kavitha

5.Ratha Mani

6.Nagajothi

7.Petchi

8.Chandru

... Petitioners

Vs.

Ganesan

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to C.C.No.184 of 2022 on the file of the learned Judicial Magistrate Court, Tirumangalam and quash the same as illegal as against the petitioners.



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For petitioners	: Mr.R.Mathava Selvam
For R1	: Mr.Kottaichamy
	Government Advocate(Crl.Side)
For R2	: Mr.M.Meenalpandian

ORDER

The petitioners are the accused in the private complaint filed by the respondent registered for the offences under Sections 294(b), 147, 148, 342, 427, 323, 506(ii) and 307 of IPC.

2. The defacto complainant/respondent is the owner of the property situated in Survey No.29/1, The land is situated near vegetable market and more than 1000 people are visiting the vegetable market. Hence, the petitioners approached the defacto complainant for establishment of the hotel in the said land and the same was refused by the defacto complainant. Thereby, the petitioners assembled together, 12th respondent driven the tractor bearing registration No.TN 58 Z 9284 and damaged the crops, its worth about Rs.6,000/-. Thereafter, defacto complainant lodged a complaint on 07.09.2020 before the law enforcing agency and the same was not taken on file. Hence, the defacto complainant/respondent filed a private complaint under Section 294(b), 147, 148, 342, 427, 323, 506(ii) and 307 of IPC. Challenging the said private complaint, petitioners filed this quash petition.



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3. The learned counsel for the petitioners submitted that the petitioners are the owners of the property, originally, property was owned by the petitioners' ancestors and the defacto complainant/respondent claimed that he is the owner of the property and has already filed suit for permanent injunction in O.S.No.134 of 2019 on the file of the Sub Court, Tirumangalam. He further submitted that in order to grab the property, the defacto complainant has purposely converted civil dispute into criminal colour. But surprisingly, the learned Judicial Magistrate without knowing the entire facts, has taken the complaint on file, which is not a sustainable one. He further submitted that no wound certificate was produced along with the list of witnesses, it is made clear that the respondent approached the trial Court without clean hands and he has also relied upon the relevant judgment of the Apex Court reported in 1992 1 SCC 335 in the case of State of Haryana and others Vs. Bhajan Lal and others.

4. The learned counsel for the respondent submitted that petitioners tried to attack the defacto complainant. Thereafter, the defacto complainant called the police, after seeing the police, petitioners run away from the disputed property. The law enforcing agency has not registered the criminal case against the petitioners. Therefore, the



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respondent/defacto complainant lodged a private complaint before the trial Court.

5. In respect of the disputed property, suit in O.S.No.134 of 2019 is pending before the Sub Court, Tirumangalam. However, pendency of the Civil Suit was not disclosed in the private complaint and further, in the private complaint it is stated that the occurrence was happened on 05.07.2020 and the defacto complainant lodged a complaint on 05.09.2020 and the private complaint registered in the year 2022. Delay in filing the private complaint was not properly explained before the trial Court.

6. In this case, no evidence was produced in support of the complaint and only to drag on the suit proceedings, the present private complaint was given by the defacto complainant. Hence, the case in C.C.No.184 of 2022 on the file of the learned Judicial Magistrate Court, Tirumangalam is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Internet : Yes/No
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To

1. The Judicial Magistrate Court, Tirumangalam
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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