



Crl.O.P.(MD)No.22710 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.22710 of 2022
and Crl.M.P.(MD)No.16070 of 2022

1.Pandi Mani

2.Pandi Selvam

... Petitioners

Vs.

1.The State of Tamilnadu,
represented by
The Sub Inspector of Police,
Vadipatty Police Station,
Madurai.

2.D.R.Premchandhar

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the First Information Report in Crime No.81 of 2020 registered by the first respondent Police and quash the same so far as the petitioners are concerned.

For Petitioners : Mr.R.Raja



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For R1 : Mr.S.Manikandan,
Government Advocate (Crl. Side)

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the first information report in Crime No.81 of 2020 registered by the first respondent Police.

2.The case of the prosecution is that the petitioners are the owner of the subject property, in which, the defacto complainant's husband entered into lease agreement. It is alleged that the defacto complainant's wife had sub-let the said property leased out to them. Even after expiry of the lease period, the defacto complainant's wife by claiming lease right and the same was objected by the petitioners and thereby, the defacto complainant's wife filed a suit in O.S.No.1063 of 2018 before the III Additional Subordinate Court, Madurai and obtained an order of stay. In these circumstances, the defacto complainant lodged a complaint by stating that the petitioners entered into the subject property, damaged



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the board, committed theft of Rs.15,000/- and abused in filthy language.

Therefore, the defacto complainant preferred a complaint before the learned Judicial Magistrate, Vadipatti under Section 156(3) Cr.P.C., and as per direction of the learned Magistrate, the first respondent registered FIR in Cr.No.81 of 2020 for the offences punishable under Sections 109, 147, 148, 294(b), 379, 427, 448 and 506(i) IPC. Challenging the same, the petitioners filed the present petition.

3.The learned counsel appearing for the petitioners submitted that the main contention of the second respondent is that when the injunction order was in force, the petitioners entered into the premises and damaged the properties. However, the second respondent filed a memo before this Court in Tr.CMP.(MD)No.32 of 2020, which was filed by the petitioners herein, by requesting permission to the respondent to withdraw the suit in O.S.No.1063 of 2018 pending on the file of learned III Additional Sub Judge, Madurai with liberty to conduct O.S.No.935 of 2019, since the suit in O.S.No.935 of 2019 is comprehensive suit regarding the issue and accordingly, the suit was dismissed as withdrawn by an order dated 27.02.2020. When the disputed suit itself withdrawn, initiation of



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criminal proceedings as against the petitioners is not sustainable one.

Accordingly, he prayed to quash the impugned FIR.

4.Though the name of the second respondent is printed, no one appeared on behalf of him.

5.The learned Government Advocate(Crl.side) appearing for the first respondent fairly admitted that the suit against the petitioners was withdrawn vide order of this Court made in Tr.CMP.(MD)No.32 of 2020 dated 27.02.2020.

6.Heard the learned counsel on either side and perused materials available in the records.

7.It is seen that a suit in O.S.No.1063 of 2018 was filed by the defacto complainant's wife and obtained an order of stay and thereafter, the defacto complainant lodged a complaint stating that when the stay order was in force, the petitioners entered into the property and damaged the same. It is also seen that the second respondent filed a memo before



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this Court in Tr.CMP.(MD)No.32 of 2020 and requesting permission to withdraw the above said suit and the same was also dismissed as withdrawn by an order dated 27.02.2020. When the disputed suit itself withdrawn by the second respondent, forcing the petitioners to face the criminal proceedings is not sustainable one. Therefore, this Court has no hesitation to quash the impugned FIR. Accordingly, FIR in Cr.No.81 of 2020 pending on the file of the first respondent Police is hereby quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

26.03.2024

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

- 1.The Sub Inspector of Police,
Vadipatty Police Station,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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