



Crl.O.P.(MD)No.49 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.49 of 2023

and

Crl.MP(MD)No.48 of 2023

1.Musthafa

2.Safiyudeen @ Mohamed Safiyudeen

3.Mathi

... Petitioners/Accused No.1 to 3

vs.

1. The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
(Crime NO.67 of 2022)

... 1st Respondent/Complainant

2.Pandi

...2nd Respondent/Defacto
Complainant

Prayer:- Petition filed under Section 482 of Code of Cr.P.C., to call for the records pertaining to the FIR in Crime No.67 of 2022 on the file of the first respondent police and quash the same.

For Petitioners : Mr.C.Jeyaprakash

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor for R1
Mr.A.Arputharaj for R2



Crl.O.P.(MD)No.49 of 2023

WEB COPY

ORDER

This petition is filed to quash the FIR in Crime No.67 of 2022 on the file of the first respondent police.

2. The First Information Report was registered with the allegation against the petitioners that the first petitioner being the landlord along with other accused broke open the lock and damaged the things of the shop and everything was found scattered in the shop when the tenant visited in the morning and hence, the complaint.

3. The learned counsel for the petitioners submits that earlier a complaint was given on the ground that the said tenant had paid an advance by promising to purchase the shop. However, without selling the property to him, it was alienated by the first petitioner to the second petitioner. The said complaint was closed as civil in nature. Even for the present occurrence, one occurrence is mentioned earlier with reference to the first floor and the second occurrence is said to have happened, and then only the complaint is made. Therefore, on the face of it, the complaint is an abuse of process of law by the tenant. Only to harass the landlords, and only because the earlier complaint was referred as civil in nature, the second complaint is given.



Crl.O.P.(MD)No.49 of 2023

WEB COPY

4. From the very nature of the argument made by the learned counsel for the petitioners, this court had to enquire into the factual allegations in order to consider the prayer of the petitioners. When the only allegation, on which the case is registered is that during the night time, the landlords have broke open the lock and damaged the shop, *prima facie* case been made out against the petitioners and all the other allegations have to be looked into only at the time of investigation and the factual arguments which are made that on account of the earlier closure of the complaint, the false complaint is given can be ascertained only after the investigation.

5. Therefore, giving liberty to the petitioners to go before the respondent / Investigating Officer with all the particulars, I am of the view that the FIR cannot be quashed on the grounds raised before this Court.

6. It is also represented by the learned Additional Public Prosecutor that the investigation is almost over. If at all the petitioners are aggrieved by the final report, it will be open for them to take recourse in the manner known to law.



WEB COPY



Crl.O.P.(MD)No.49 of 2023

7. With the above observations and liberty, the Criminal Original Petition shall stand disposed of. Consequently, the connected miscellaneous petition is closed.

02.09.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
dss

To

- 1.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.49 of 2023

D.BHARATHA CHAKRAVARTHY, J.

dss

**Crl.O.P.(MD)No.49 of 2023
and
Crl.MP(MD)No.48 of 2023**

02.09.2024