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Crl.O.P.Nos.20398 and 21645 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.Nos.20398 and 21645 of 2023

and

Crl.M.P.Nos.13869 and 14950 of 2023

A.Ashok Kumar

... Petitioner
in Crl.O.P.No.20398 of 2023

R.Arumugam

... Petitioner
in Crl.O.P.No.21645 of 2023

Vs.

1. The State of Tamil Nadu
Rep.by the Inspector of Police,
Race Course Police Station,
Coimbatore District,
Coimbatore.

2. A.Anandkumar

... Respondents
in both Crl.OPs

Common Prayer: Criminal Original Petitions filed under Section 528 BNSS, 2023, to call for the entire records in C.C.No.1839 of 2023 pending on the file of the Judicial Magistrate No.III, Coimbatore and quash the same as against the petitioners/A1 and A2.



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For Petitioners : Mr.R.John Sathyan
Senior Counsel for
Mr.Subhang P.Nair
[in both Crl.OPs]

For Respondents : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)
for R1
[in both Crl.OPs]

Mr.M.Ravi for R2
[in both Crl.OPs]

COMMON ORDER

These Criminal Original Petitions are filed to quash the proceedings in C.C.No.1839 of 2023 pending on the file of the Judicial Magistrate Court No.III, Coimbatore as against the petitioners/A1 and A2.

2. The case of the prosecution as per the *de-facto* complainant is that the petitioners herein/A1 and A2 and others had trespassed into the property and tried to forcibly evict the *de-facto complainant* and also used abusive language and petitioners had leased a portion of the subject property in favour of A3. Hence, the *de-facto* complainant lodged a



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complaint on 11.03.2019 and the same was registered in Crime No.174

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of 2019 for the alleged offences punishable under Sections 75(i) Tamil Nadu City Police Act, Sections 147, 447 read with Section 511 IPC and Section 506(i) read with Section 109 IPC. After investigation, the respondent-Police filed a charge-sheet against the petitioners / A1 and A2 for the offences punishable under Section 448 read with 109 IPC before the learned Judicial Magistrate-III, Coimbatore and cognizance was taken in C.C.No.1839 of 2023.

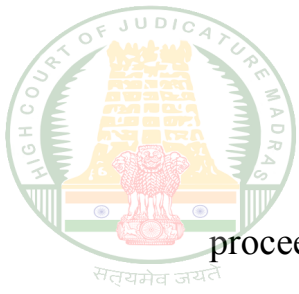
3. Learned Senior Counsel appearing for the petitioners submitted that the *de-facto* complainant is none other than brother of A1 and son of A2. There was a civil dispute pending between the petitioners and the *de-facto* complainant regarding the ownership of the subject property and in this regard a civil suit in O.S.No.1179 of 2018 is also pending before the learned Additional District Munsif, Coimbatore. Suppressing the aforesaid civil dispute, a false complaint has been lodged stating that on 05.03.2019, there was unlawful assembling headed by the petitioners and others and the *de-facto* complainant was threatened of dire consequences. The said complaint has been lodged with the intention to counter blast



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the complaint given by one Durai/A3 in respect of subject property and registered as C.S.R.No.181 of 2019 and the same was dropped by the respondent-Police as a civil dispute. However, the complainant given by the *de-facto* complainant has been registered and taken up for investigation by the respondent-Police.

4. In the said circumstances, A1 filed a petition in Crl.O.P.No.14210 of 2019 before this Court seeking to quash the FIR in Crime No.174 of 2019. This Court *vide* order dated 26.09.2022 dismissed the same and directed the first respondent-Police to cause summons to the accused as well as the *de-facto* complainant, make proper investigation and file final report. Challenging the said order, A1 preferred SLP(Crl.)No.6411-6413 of 2023. The Hon'ble Supreme Court *vide* order dated 12.05.2023 restraining the first respondent-Police from taking coercive action against the petitioners. During the pendency of the said SLP, the first respondent-Police had proceeded with the investigation and filed the charge-sheet against the petitioners for the offences punishable under Section 448 read with 109 IPC. There is no specific overt act attributed against the petitioners/A1 and A2 and hence,



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proceedings in C.C.No.1839 of 2023 pending on the file of the Judicial Magistrate Court No.III, Coimbatore may be quashed as against the petitioners.

5. Learned Government Advocate (Crl.Side) appearing for the first respondent-Police submitted that the second respondent/*de-facto* complainant is none other than the son of A2 and brother of A1. The property in question is an ancestral property of A2/Arumugam. Later, A2 settled the entire property in favour of the second respondent/*de-facto* complainant in the year 2014 *vide* Document No.4119 of 2014 dated 20.11.2014 wherein the said Arumugam has only restricted right of title of 1/3rd share in the property, being ancestral property. In this connection, a civil suit in O.S.No.1179 of 2018 is pending between the parties. Thereafter, A2 had also registered rectification deed dated 22.02.2019 to the effect that both his sons i.e., A1 and the *de-facto* complainant will be entitled to half share (each) in the disputed property. While that being so, on the date of occurrence, the petitioners trespassed into premises of the *de-facto* complainant and threatened them with dire consequences. Since there is a specific overt act attributed against the petitioners, the first



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respondent-Police registered the case against the petitioners and also filed the charge sheet against them.

6. Heard both sides and perused the materials available on record.

7. This Court, after perusing the complaint, charge-sheet and statement of witnesses recorded in the course of the investigation, finds that *prima facie* there are materials available against the petitioners/A1 and A2 to proceed with the case further. Further, the grounds raised by the petitioners in present quash petition is nothing but a defence that can be agitated only during trial and not at this stage. Therefore this Court is not inclined to quash the proceedings by exercising the power under Section 482 of Cr.P.C. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

11.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate No.III,
Coimbatore.
2. The Inspector of Police,
Race Course Police Station,
Coimbatore District,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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