



WEB COPY



Crl.O.P.(MD)Nos.460 & 513 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : **15.03.2023**

Delivered on : **05.04.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) Nos.460 & 513 of 2020

and

Crl.M.P.(MD)Nos.157 & 168 of 2020

Crl.O.P.(MD)No.460 of 2020

Siva @ Sivakumar

... Petitioner/Sole accused

Vs.

1. State rep. by The Inspector of Police,

Thenkarai Police Station,

Periyakulam Taluk, Theni District.

(Crime No.520 of 2019)

... 1st Respondent/ Complainant

2.Ramadoss

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned F.I.R in Crime No.520 of 2019, dated 26.11.2019, on the file of the first respondent police and to quash the same.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.M.Sakthikumar
Government Advocate (Crl.Side)for R1

: Mr.P.Andiraj for R2



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1.M.Chellaiah @ Chellaiah Pillai

2.Siva @ Sivakumar

3.Vimalathithan

... Petitioners/accused

Vs.

1. State rep. by The Inspector of Police,

Thenkarai Police Station,

Periyakulam Taluk, Theni District.

(Crime No.527 of 2019)

... 1st Respondent/ Complainant

2.Ramadoss

... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned F.I.R in Crime No.527 of 2019, dated 29.11.2019, on the file of the first respondent police and to quash the same.

For Petitioners : Mr.R.Shankar Ganesh

For Respondents : Mr.M.Sakthikumar
Government Advocate (CrI.Side)for R1

: Mr.P.Andiraj for R2



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COMMON ORDER

These petitions are filed to quash the F.I.Rs in Crime Nos. 520 and 527 of 2019, on the file of the first respondent police.

2. The allegation against the petitioners is that on 26.11.2019, at about 10.30 am., when the defacto complainant's employees were working in the land in Survey No.679, Thamaraikulam Village, Periyakulam Taluk, the petitioners abused them in filthy language and threatened them with dire consequences. Cases in crime Nos.520 and 527 of 2019, were registered against the petitioners.

3. On the side of the petitioners, it is stated that the grand father of the petitioners 2 & 3 and the father of the first petitioner-Chennaiah, namely, Muthukamatchi Pillai, was the cultivating tenant from the year 1974 and he was in enjoyment of 3 Acres 81 Cents comprised in Survey No.679, Tharmarikulam Bit No.I, that belonged to the temple, namely, Arulmighu Soundiyamman Temple situated in Vadugapatti, Sedapatti, Periyakulam Taluk. The property is in joint possession of the grant father and one Kariyamal Ambalam in the year 1974. The said Kariyamal Ambalam relinquished his right in favour of



the petitioner's grand father orally on 14.08.1978. The said Kariyamal Ambalam executed an unregistered agreement as a proof for his relinquishment. The name of the petitioner's grand father was included in the revenue records, as a cultivating tenant vide proceedings in Form No.V.145/78,B4, dated 28.08.1978. In the year 1990, the erstwhile President and the Administrators of the said temple filed a suit in O.S.No. 280 of 1990 on the file of the Sub Court, Periyakulam, against the petitioner's grand father and some other persons, for a relief of declaration and for recovery of possession and the suit was partly allowed and the relief of recovery of possession was declined and the plaintiffs were directed to approach the Revenue Court for further proceedings regarding the recovery of possession and damages.

4. It is further stated that the ancestors of the second respondent approached the Revenue Court, Madurai and the proceeding was dismissed for non-prosecution, proceeding in P.D.No. 214/2000, dated 17.04.2001 and again, another proceeding in P.D.No. 100/2001, dated 17.12.2014 was dismissed. Subsequently, at the instance of the second respondent and his community members, the first respondent coerced the petitioner and his family members to vacate the land and threatened them that he would foist false cases. Though the first



petitioner, viz., Chellaiah, made a representation on 03.10.2019 to the Superintendent of Police, Theni District, no action was taken. Subsequently, the first petitioner - Chellaiah, made a complaint on 23.10.2019 and he filed a petition in CrI.O.P.(MD)No.16023 of 2019, seeking not to harass the first petitioner and his family members. Without any cause, the first respondent foisted a false case in Crime No. 520 of 2019 for the alleged offences under Sections 294(b) and 506(i) of I.P.C r/w. Section 4 of TNPHW Act and another false case in Crime No. 527 of 2019 under Sections 447, 427 and 379(NH) of I.P.C was registered against the petitioners. A suit filed by the first petitioner-Chellaiah, in O.S.No.113 of 2019 on the file of the Sub Court, Periyakumal, is pending.

5. On the side of the petitioners, it is stated that the F.I.R is an abuse of process of law. The averments in the F.I.R did not attract the offences under Sections 294(b), 506(i) of I.P.C r/w. Section 4 of TNPHW Act and Sections 447, 427 and 379(NH) of I.P.C. The petitioners and their family members are in possession of the land in Survey No.679, Thamaraikulam Village. Criminal colour is given to a civil dispute and hence, the F.I.R is to be quashed.



6. On the side of the petitioners, it is stated that the Fore-father of the petitioners was a cultivating tenant and the respondent cannot evict the petitioners without due process of law. The suit filed by the temple was dismissed with regard to recovery of possession. A petition, before the R.D.O for recovery of possession, was dismissed twice and hence, a false criminal case was foisted against the petitioners. Being a cultivating tenant, there is no question of trespass or misuse made out against the petitioners.

7. On the side of the prosecution, it is stated that Two F.I.Rs, viz., Crime No.520 of 2019 and 527 of 2019) were registered against the petitioners. The date of occurrence was 26.11.2019, the land belonged to the temple, the agricultural Cooli women, who are working in the land, were abused and threatened by the petitioners. Investigation in this case was over. Charge sheet was kept ready. Since stay is granted by this Court, charge sheet could not be filed before the concerned Forum. The temple is already in possession of the property. It was the petitioners, who are interfering in the possession of the temple.



8. On the side of the private respondent - defacto complainant, it is stated that the land belonged to the temple. It was the petitioners and others, who disturbed the workers engaged by the temple. The petitioners and others used to destroy all the crops in the land and they caused damage to the tune of Rs.30,000/-. Only after investigation, the involvement of the accused can be proved and prayed the petition to be dismissed.

9. It is seen that there is some civil dispute between the petitioner's forefather and the temple. The temple was declared as the owner of the property. The petitioners are claiming that the proceedings taken by the second respondent - defacto complainant, for taking possession, were dismissed by the revenue Department. The petitioners are claiming lawful possession as a cultivating tenant. The second respondent is now trying to evict the petitioners through criminal proceedings.

10. The allegation against the petitioners is that they threatened the persons, who were working in Survey No.679 and they criminally intimidated them. Case in Crime No.520 of 2019 for the offences under Sections 294(b) and 506(i) of I.P.C r/w. Section 4 of



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TNPHW Act and another case in Crime No.527 of 2019 was registered under Sections 447, 427 and 379(NH) of I.P.C against the petitioners.

Whether the petitioners have involved in any such offence can be decided only after the completion of the investigation. Closing the case at the threshold is not fair. This case requires a fair trial. Hence, at the present stage, it is decided that there is nothing sufficient enough to quash the F.I.R.

11. Hence, these Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Ls

05.04.2023



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To
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- 1.The Judicial Magistrate No.VI,
Madurai.
- 2.The Inspector of Police,
Tirunagar Police Station,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

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