



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08/06/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.11334 of 2022

and

Cr1.MP(MD)Nos.7143 and 7144 of 2022

1.SP.Anjappan
2.S.Rakkappan
3.C.Chinnaiah
4.M.Anjappan
5.R.Mani
6.P.Ramu

: Petitioners/A1 to 5

Vs.

Valliappan

: Respondent/Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings in CC No.162 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppathur and quash the same.

For Petitioners : Mr.R.Senthilkumar

For Respondent : Mr.T.K.Gopalan

**ORDER**

WEB COPY

This criminal original petition has been filed seeking quashment of the proceedings in CC No.162 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppathur.

2.The facts in brief:-

This is a private complaint filed by the respondent stating that about 130 goats belongs to one Arilmigu Sri Karumalai Sathaayynar Temple worth about Rs. 15,00,000/-. Difference of opinion arose between the villagers over the maintenance of the goats. So, section 107 Cr.P.C proceedings were initiated by RDO, Devakottai, by arraying rival parties as 'A' and 'B'. By order, dated 23/10/2019, RDO directed to sell the goats in the public auction. After paying the maintenance amount to the care taker, the balance amount must be deposited in the account of 'A' and B party. They received information from the Kandavarayan Police Station that auction will be taken, on 04/11/2019. They visited the police station and stated that they did not give any consent for selling all the goats; They gave consent only for selling old goats.



Objecting the above said step, they made objection to RDO. Making the above said objections to postpone the auction, they did not participate and appear before the officials, on 04/11/2019; But with an intention to cheat and commit the breach of trust, 'A' party handed over all the goats to the officials. Again, a complaint was given to the District Collector. But so far, no auction has been taken. Without properly complying the order passed by the RDO, they have sold the goats worth about **Rs. 15,00,000/-**, failing to deposit in the joint account, they made demand either to restore or to deposit the sale amount. But they refused and criminally intimidated. With these allegations, the private complaint is filed seeking punishment on the accused for the offences under sections 120(b), 406 and 420 IPC.

3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that only as per the order of the RDO, the sale was taken by auctioning.



4.Per contra, it is contended on the part of the respondent that against the promise that was made by the accused, without their presence and participation and without proper reason, all the goats have been sold in the public auction and misappropriated.

5.Heard both sides.

6.The order passed, by the RDO, dated 23/10/2019 is available in the typed set of papers, which reads that because of the difference of opinion between two groups of people, sale must be made by both parties and after deducting the expenses for maintenance, rearing the goats, the balance amount shall be deposited in the joint account of 'A' and 'B' party. They were also permitted to utilise the amount for public or common purpose. They have also given an undertaking that they will not give any trouble to each other in future. They also executed bond to maintain the peace.

7.Now the allegation of the respondent is that against the above said order, all the goats have been sold and money misappropriated by the accused. The above



<https://www.mhc.tn.gov.in/judis>



WEB COPY

8. Reading of these public documents namely the letters and action taken in the course of discharging the public duty, it is evident that because of the non cooperation of the respondent, the order of the RDO could not be complied in full namely the auctioning goats jointly and depositing the sale proceeds in the joint account. When the respondent himself make some objections refusing to cooperate with the others, now it is not proper on his part to say that against his promise, action was taken and money was misappropriated.

9. The account copy is also produced, which shows that the above said sale proceeds is deposited in the account of Rakkappan, Chinnya and Manickam, who belongs to A party. So, there is no question of misappropriation herein. Proper account is also maintained. So, these official documents establish the fact that due to some vengeance or enmity, the private complaint has been filed, which will amount to clear abuse of process of court and law. So, the continuation of proceedings against the petitioners is liable to be quashed and accordingly, it is quashed.



7

10. In the result, this criminal original petition is **allowed**. The entire proceedings in CC No.162 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thiruppathur is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

08/06/2023

Index:Yes/No
Internet:Yes/No

er

To,

The District Munsif-cum-Judicial Magistrate,
Thiruppathur.



WEB COPY



8

G.ILANGOVAN, J

er

Crl.OP(MD)No.11334 of 2022

08/06/2023