

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case No.938 of 2015
and
M.P.Nos.1 and 2 of 2015

1.Ramamurthy

2.Sasikumar

3.S.N.Balasubramaniam

4.M.Venkatachalam

5.Natarajan

....Petitioners/Accused

vs.

State represented by its
Inspector of Police,
Bangalapudur Police Station,
Erode District.
(Cr.No.243/2014)

....Respondent/Complainant

PRAYER :

Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure praying to revise the order of framing charges by the learned Judicial Magistrate No.1, Gobichettipalayam in C.C.No.37 of 2015 dated 23.07.2015 and discharge the petitioners herein.

For Petitioners

:

Mr.R.Karthikeyan

For respondent

:

Mr.V.Arul,
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed by the petitioner praying to revise the order of framing charges by the learned Judicial Magistrate No.1, Gobichettipalayam in C.C.No.37 of 2015 dated 23.07.2015 and to discharge the petitioners herein.

2. The contention of the petitioners is that the first petitioner had filed a civil suit in OS No.235 of 2014 on 24.9.2014 for permanent injunction restraining one Marudchalam and K.R.Kandhaswamy, a political person and a relative of the said Marudachalam, from interfering with the plaintiff's peaceful possession and enjoyment of the suit property and notice was ordered to the defendants also. The said Marudachalam had entered appearance in the said suit and has also filed his Written Statement. In the mean while, the said Marudachalam through his mother has preferred the present complaint alleging trespass and damage to the pipes in the suit land. The respondent without even properly investigating into the said complaint as to the ownership of the land have filed a final report on the instigation of an influential person, namely, Marudhachalam's uncle, who is a politician.

3. The contention of the learned counsel appearing for the revision petitioners is that the lower court has erred in framing charges and for each offence, a separate charge should have been framed and the lower Court has not properly framed the charges and apart from that, the matter is purely civil in nature and the same has not been considered. No enquiry was conducted. Therefore, the learned counsel for the petitioner prays that the order of framing charges of the lower Court has to be set aside.

4. Mr.V.Arul, learned Government Advocate would contend that the dispute is civil in nature cannot be considered merely there is a suit pending and a distinctive charge for a distinctive offence has been made out and therefore, this Court need not interfere with the proceedings.

5. Considering the nature of the allegation made and the plea raised by the learned counsel for the petitioner that the matter pertains to a civil dispute and the petitioner was not enquired, and the fact that the charge is not specific to each of the offence, the order of framing charges by the learned Judicial Magistrate No.I, Gobichettipalayam in C.C.No.37 of 2015 dated 23.07.2015 is set aside and the matter is remitted back to the aforesaid Judicial Magistrate to pass appropriate orders in accordance with law after hearing the

petitioner. The Criminal Revision Case is allowed. No costs. The connected Miscellaneous Petitions are closed.

6. At this juncture, the petitioner states that the petitioners may be permitted to file discharge petition. It is for the petitioners to do so, if so advised.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Judicial Magistrate No.1,
Gobichettipalayam.
2. Inspector of Police,
Bangalapudur Police Station,
Erode District.
(Cr.No.243/2014)
3. The Public Prosecutor,
High Court, Madras.

1 CC to Mr.R.Karthikeyan, Advocate SR.No. 47491

Cr1.R.C. No.938 of 2015
and
M.P.Nos.1 and 2 of 2015

RV (CO)
PSI (28.09.2015)

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