



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Cr1.O.P. (MD)No.22227 of 2015

and M.P (MD)Nos.1 & 2 of 2015

1.Pasupathi
2.Murugesan
3.Pothumponu
4.Andiyappan
5.Arumugam
6.Rathinam
7.Sarasu

...Petitioners/Accused Nos.1 to 7

Vs.

Karpakam

...1st Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.117 of 2015 on the file of the Judicial Magistrate, Manapparai and quash the proceedings as against the petitioners.

For Petitioners : Mr.G.Karnan

ORDER

The petitioners have come forward with this petition, seeking to quash the proceedings in C.C.No.117 of 2015, pending on the file of the Judicial Magistrate, Manapparai.

2. The case of the petitioners is that this a civil dispute between the petitioners and the respondent and that unnecessarily, a false case has been foisted against the petitioners and admittedly, a civil dispute in O.S.No.147 of 2013 is pending before the Subordinate Judge, Tiruchirappalli. It is the further case of the petitioners that already a police complaint was given with regard to the cutting of trees and the same has not been taken on file for investigation/enquiry.

3. The counsel for the petitioners would submit that the petitioners have been unnecessarily implicated in the offences, which they have not committed and that a civil case cannot be converted into a criminal case.

4. I have heard the counsel appearing on either side and perused the materials available on record.

5. A reading of the First Information Report merely shows that there was a civil dispute and whether the petitioners have involved in the offence or not is a matter for evidence and this Court cannot go into the question of fact rather than given a finding on the same.

6. In view of the Judgment of the Hon'ble Supreme Court in *HMT Watches Ltd. Vs. M.A.Abida & Another* reported in (2015(2) CTC 446) wherein, it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to



proceed with the criminal complaint, I am not inclined to grant the relief as sought for by the petitioners.

7. While this Court is about to dismiss the Criminal Original Petition, the learned counsel appearing for the petitioners submitted that the presence of the petitioners before the trial Court may be dispensed with throughout the trial.

8. Considering the facts and circumstances of the case, this Court directs the trial Court to dispense with the personal appearance of petitioners before it, upon the petitioners swearing to an affidavit informing their address for service, that they duly would be represented by their counsel on all hearing dates, that they would, at no instance, dispute their identity and that, they would appear before the trial Court, as and when required. Upon the petitioners doing so, the trial court may seek the presence of the petitioners before it, solely on the important hearing dates.

9. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Judicial Magistrate, Manapparai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.G.Karnan, Advocate in SR.68131

CRL.OP(MD)No.22227 of 2015
30.11.2015

ps

PBK/NGM-SS 08/12/2015 ::2P-4C::