



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 29.01.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.O.P.(MD)No.23470 of 2014
and
M.P.(MD)Nos.1 & 2 of 2014

1. KATHAR FATHIMA BEEVI
2. MOHAMED
3. CHELLAIAH @ SELVAM
4. SITHIQ SARA
5. SIDHA MUDHUR MIDHEEN
6. BARIDH ASLAM
7. PALANICHAMY
8. RAJESH

.. Petitioners/Accused 1 to A6, A8 & A9

Vs.

1. THE INSPECTOR FO POLICE,
PC PATTI POLICE STATION,
THENI DISTRICT.

..1st Respondent/Complainant

2. KASAMMAL

.. 2nd Respondent/Defacto Complainant

Prayer: Petition filed under Section 482 of Cr.P.C. to call for the records relating to the complaint in CC.No.61/14 on the file of the learned Judicial Magistrate, Theni and quash the same.

For Petitioner : Mr.G.Karuppasamy Pandian

For R1 : Mr.K.Anbarasan
Govt.Advocate (Cr1. side)

For R2 : Mr.B.Chandramohan

ORDER

The petitioner seeks to quash the proceedings in CC.No.61/14 on the file of the learned Judicial Magistrate, Theni and quash the same.

2. Upon complaint of the second respondent, a case has been registered in Crime No.410 of 2013 for the offences under Sections 147, 148, 447, 427, 294(b), 379(NH) and 506(ii) IPC. Pursuant to the investigation, charge sheet has been filed and the same having been taken cognizance of in case pending trial in C.C.No.61 of 2014 on the file of the Judicial Magistrate Court, Theni.

3. The learned counsel for the petitioner submits that there is a civil dispute between the parties. The petitioner had already obtained a civil decree for declaration of title and recovery of possession.



4. Alleging offences that the petitioners herein have trespassed into the property and having used filthy language and criminally intimidated the complainant and also taken away 3,000 coconuts, the complaint has been lodged on 30.09.2013, but the occurrence had taken place on 26.09.2013. In the FIR, only four of the petitioners names have been mentioned. The first petitioner is aged about 75 years, while the petitioners 3 and 5 are also the aged persons.

5. The learned counsel for the second respondent submits that against an exparte decree passed in favour of the first petitioner, the complainant has filed Civil Revision Petition before this Court which has been allowed.

6. Considering the rival submissions, this Court is of the view that when the matter is pending trial, the petitioners have to face the same. It is for the prosecution to establish the offence alleged against the petitioners.

7. In the result, this Criminal Original Petition is dismissed. However, the trial Court is directed to dispense with the personal appearance of petitioners before it, upon their swearing to affidavits 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. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. THE JUDICIAL MAGISTRATE, THENI.
2. THE INSPECTOR FO POLICE,
PC PATTI POLICE STATION, THENI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.G.KARUPPASAMY PANDIAN, ADVOCATE IN SR : 4357
+1cc to MR.B.CHANDRAMOHAN, ADVOCATE IN SR : 4482

Rj2
SR : 24.02.2015 : 2p/6c

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29.01.2015