



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE S. NAGAMUTHU

Crl.R.C (MD) No.481 of 2014 and M.P (MD) No.1 of 2014

WEB COPY

1.M.Arunachala Pandian

2.A.Anbazhagan

.. Petitioners/Petitioners

Vs.

1.State of Tamil Nadu,

Rep. by the Inspector of Police,
Pavoorchathiram Police Station,
Pavoorchathiram, Tirunelveli District.

2.R.N.Arunachalam

.. Respondents/Respondents

(R - 2 is impleaded as per order dated 04.03.2015)

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of Cr.P.C., to call for records relating to the order dated 16.09.2014 passed in Crl.M.P.No.1889 of 2014 in C.C.No.93 of 2013 on the file of the learned Judicial Magistrate, Tenkasi and to set aside the same as illegal.

For Petitioners : Mr.R.Manickam

For R - 1 : Mr.P.Kannithevan,
Government Advocate
(Criminal side)

For R - 2 : No appearance

ORDER

The petitioners are the accused in C.C.No.93 of 2013 on the file of the learned Judicial Magistrate, Tenkasi. The first respondent has filed a final report alleging that the petitioners have committed offences punishable under Sections 447, 294(b) and 506(ii) I.P.C. Seeking discharge, the petitioners filed a petition in Crl.M.P.No.1889 of 2014, which was dismissed by the learned Judicial Magistrate, Tenkasi.

2. I have heard the learned counsel for the petitioners and the learned Government Advocate (Criminal side) appearing for the first respondent. The second respondent has not made appearance.

3. It is the contention of the learned counsel for the petitioners that in respect of the landed property in question, there is a civil suit pending between the parties in O.S.No.434 of 2012 on the file of the District Munsif Court, Tenkasi and the present case is nothing but a colourable litigation to convert a civil dispute into a criminal case.

4. I have considered the above submissions.



5. A perusal of the complaint would go to show that the civil suit is pending, but the civil Court had not passed any order in favour of the petitioners. It is not known whether as on the date of the alleged occurrence, the petitioners were in actual legal possession of the property or the defacto complainant was in possession. Simply because, a civil dispute has been filed claiming same rights, it cannot be said that the petitioners have got a license to trespass into the property.

6. Thus, in my considered opinion, whether the entry of the petitioners in the property is legal or not is a matter to be decided only by the trial Court during trial. Thus, the lower Court was right in dismissing the petition.

7. In the result, this Criminal Revision Case fails and accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Tenkasi.
- 2.The Inspector of Police,
Pavoorchathiram Police Station,
Pavoorchathiram,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Manickam,Advocate SR.No.36367

Cr1.R.C(MD)No.481 of 2014
03.07.2015

ps/gcg
PA/SJW/13.07.2015/2P/5C