

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.Nos.694 & 1309 of 2015

and

M.P.No.1 of 2015 in Crl.R.C.No.694 of 2015 and

M.P.Nos.1 & 2 of 2015 in Crl.R.C.No.1309 of 2015

1.Mohan Raj
S/o.Ranganathan

2.Arivookani
S/o.Vaidyanathan

... Petitioners in both Crl.R.Cs.

vs.

State represented by its
Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.
Crime No.184 of 2012

... Respondent in both Crl.R.Cs.

Prayer:
Crl.R.C.No.694 of 2015

Criminal Revision filed under section 397 & 401 of the Code of Criminal Procedure, against the order of learned Assistant Sessions Judge, Chidambaram, passed in Crl.M.P.No.446 of 2014 in S.C.No.225 of 2013 on 25.02.2015.

Crl.R.C.No.1309 of 2015

Criminal Revision filed under section 397 & 401 of the Code of Criminal Procedure, against the order of learned Assistant Sessions Judge, Chidambaram, framing charges in S.C.No.225 of 2013 on 05.12.2013.

For Petitioners: Mr.R.Karthikeyan

For Respondent : Mr.C.Iyyapparaj
Government Advocate (Crl.side)

COMMON ORDER

As the parties in both revisions are common, they can be disposed of by a common order.

2. A complaint was preferred by the Village Administrative Officer on 12.11.2012 informing that petitioners and others had destroyed a pathway. The prosecution case is that petitioners and other agriculturists raised crops on a canal poromboke. The same was a obstruction to the common pathway put up by Government. Petitioners damaged a portion of such pathway on 11.11.2012. When the revenue officials sought to inspect the property on 12.11.2012, they were prevented, questioned and informed that they would be met in Court. Pursuant to registration of case in Crime No.184 of 2012 on the file of the respondent, a charge sheet was filed informing commission of offences u/s.341, 353, 431 and 3 of Tamil Nadu Properties (Prevention of Damages and Loss) Act, 1992, on 07.03.2013 and the case was taken on file in S.C.No.225 of 2013 on the file of learned Assistant Sessions Judge, Chidambaram. Charges were framed on 05.12.2013 and the petition seeking discharge moved thereafter was dismissed under orders in CrI.M.P.No.446 of 2014 dated 25.02.2015. Against such dismissal, CrI.R.C.No.694 of 2015 has been preferred. CrI.R.C.No.1309 of 2015 has been preferred against framing of charges for the offences aforementioned.

3. Heard learned counsel for petitioners and learned Government Advocate [CrI.side].

4. Learned counsel for petitioners produced a copy of judgment and decree in O.S.No.476 of 1994 on the file of learned District Munsif, Chidambaram, wherein permanent injunction restraining others from interfering with petitioners' possession of the land in question has been ordered. A resolution of the Panchayat Union dated 03.03.1989 reveals that the family members of petitioners have been exercising such cultivation right since 1961. It is not in dispute that petitioners as also several others were cultivating crops on poromboke land. It also is not in dispute that they were doing so upon permission obtained from the local panchayat. The act of the panchayat in granting permission for effecting cultivation on poromboke lands might in itself be wrongful but in the circumstance, the act of petitioners in seeking to protect crops raised by them, they having been exercising such right over a very long period, may be seen as an attempt to protect their property.

In such view of the matter, CrI.R.C.No.1309 of 2015 stands allowed and the order of learned Assistant Sessions Judge, Chidambaram, framing charges in S.C.No.225 of 2013 on 05.12.2013, stands set aside. As a consequence, CrI.R.C.No.694 of 2015 stands closed. Consequently, connected miscellaneous petitions are closed. It, however, is made clear that petitioners are not to read this order as one entitling them to stay in possession or resist attempts to remove, what in reality, is an encroachment entered upon by them. If they do indulge in any such acts, they would be visited with the consequences.

-s/d-
Assistant Registrar (CSIII)

True Copy

Sub-Assistant Registrar

gm
To

1. The Assistant Sessions Judge,
Chidambaram.
2. The Principal Sessions Judge,
Cuddalore District
3. The Inspector of Police,
Kumaratchi Police Station,
Cuddalore District.

4. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.R.Karthikeyan, Advocate Sr 1687 (13/4/16)

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CrI.R.C.Nos.694 & 1309 of 2015

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