

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.24794 of 2016
and
Crl.OP.Nos.11950 & 11951 of 2016

1.Thenmozhi Pingki
2.Deepa @ Ramya Deepa
3.Subhashini
4.Raja Indira alias Thilaga
5.Kamalam Petitioners

Vs.

1. The Inspector of Police,
Valapady Police Station,
Valapady Taluk,
Salem.
(Crime No.109 of 2012) 1st Respondent/Complainant

2. K.Parameswaran,
The Executive Officer of Arulmigu
Kasi Viswanathar Selvavinayagar Thirukoil,
Valapady,
Salem. 2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to C.C.No.278 of 2012 on the file of the Judicial Magistrate No.VI, Salem and to quash the same.

For Petitioners : M/s.Karan and Uday

For Respondent : Mr.C.Emalias [for R1]
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.278 of 2012 on the file of the Judicial Magistrate No.VI, Salem.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent police.

3. It is the case of the prosecution that on 02.03.2012 at around 11.00 a.m. in the morning, when the officials of HR&CE Department came to remove the encroachments, the petitioners and his family members prevented them from discharging their duties.

4. The learned counsel for the petitioners submitted that under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959, it is only the Assistant Commissioner, who has got the power to remove the encroachments and not the Executive Officer. That apart, the learned counsel for the petitioner submitted that even without notice to the petitioners, the officials dissented upon the petitioners' property.

5. In the considered opinion of this Court, these are all the defences which are all available to the petitioners and the same can be pressed into service only during trial and not under Section 482 Cr.P.C., Hence, this petition is dismissed with liberty to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

6. Since the case is of the year 2012, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order, provided the petitioners herein co-operate with the trial.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Judicial Magistrate VI,
Salem.
2. The Inspector of Police,
Valapady Police Station,
Valapady Taluk, Salem.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Karan & Uday, Advocate, S.R.No.65364

Cr1.O.P.No.24794 of 2016

RSI (CO)
CA(14/12/2016)

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