

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.14140 of 2011
and M.P.No.1 of 2011

1.P.Parthasarathy
2.S.Thangavel
3.K.Appunniee
Petitioners

vs.

1.State rep by
The Inspector of Police
District Crime Branch
Thiruppur.

2.P.Jeganatha Swami

Respondents

[R2 suo motu impleaded vide order of the Court dated 16.11.2016]

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to quash the FIR and all proceedings against petitioners now pending in Cr.No.9 of 2011 on the file of the Inspector of Police, District Crime Branch, Thiruppur.

For petitioners-

For R1

Mr. C. Emalias

Addl. Public Prosecutor

For R2

Mr.M.N.Balakrishnan

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ORDER

This Criminal Original Petition has been filed seeking to quash the FIR and all proceedings against petitioners pending in Cr.No.9 of 2011 on the file of the Inspector of Police, District Crime Branch, Thiruppur.

2. For the sake of convenience, the parties will be referred to by their name.

3. Heard the learned counsel for the respective parties.

4. On the complaint lodged by Jeganatha Swami, the District Crime Branch registered a case in Cr. No.9 of 2011 on 06.06.2011 under Sections 120-B, 365, 342 and 395 IPC against (1) Sivakumar, former Forest Ranger, (2) Nedunchezian, former Ranger, (3) Sekar, Press Reporter, (4) Parthasarathy, Forester, (5) Thangavel, Forester and (6) Appunnie, Forest Guard and took up investigation. Challenging the FIR, Parthasarathy (A4), Thangavel (A5) and Appunnie (A6) filed the present quash application through advocate Mr. N. Kumanan in 2011 and since then this quash application has been kept pending.

5. When the matter was taken up for hearing on 16.11.2016, this Court suo motu impleaded Jeganatha Swami (de facto complainant in Cr. No.9 of 2011) as party respondent and also issued notice to the Inspector of Police, District Crime Branch, to be present before this Court and produce the case diary.

6. On 15.12.2016, Mr. Kumanan, learned counsel-on-record submitted that the first petitioner, viz., Parthasarathy (A4) had died on 18.11.2016 and the FIR against him abated. As regards the petitioners 2 and 3 viz., Thangavel (A5) and Appunnie (A6), Mr. Kumanan submitted that despite communications sent to them, they have not responded and therefore, he withdrew his vakalat for them. Therefore, this Court directed the Registry to print the name of Thangavel (A5) and Appunnie (A6) in the cause list. The Court Attender called out the name of Thangavel (A5) and Appunnie (A6) thrice and there is no representation for them. Hence, this Court heard Mr.M.N.Balakrishnan, learned counsel for Jeganatha Swami and Mr. C. Emalias, learned Additional Public Prosecutor.

7. The factual matrix of the case is as follows:

[a] Jeganatha Swami was working in the Police Department and had retired as Police Constable in the year 1995 and post retirement, he was running a poultry farm in his land for eking out his livelihood. On 17.12.2008, Sivakumar (A1), Nedunchezian (A2), Sekar (A3) and others came to the farm of Jeganatha Swami and illegally detained him. They alleged that Jeganatha Swami is growing sand boa, a banned species of snake, in his farm and they allegedly demanded Rs.5 lakhs from him for not registering a case against him. Jeganatha Swami refused to accede to their illegal demand. The accused started bargaining with him to reduce the amount. While Jeganatha Swami was stubborn, the accused found a pot of sand boa in the land of Jeganatha Swami, which is said to have been placed in the land by Jeganatha Swami's employee Murugan. Jeganatha Swami was stunned. The accused took Jeganatha Swami and Murugan to the

forest office and started further bargaining. They let off Murugan and foisted a case against Jeganatha Swami, as if he was in possession of sand boa and arrested him and remanded him to custody. Jeganatha Swami came out on bail. But, by then, the entire village came to know that Murugan was treated with liquor and money in order to plant the pot of sand boa in the poultry farm of Jeganatha Swami.

[b] One day prior to the incident, Murugan was carrying with him, a pot to a tea stall and while he was having tea, the sand boa started wriggling out of the pot, which was noticed by the villagers. Jeganatha Swami, after release from jail, gave a detailed representation to the Superintendent of Police, Thiruppur District and by that time, it came to the knowledge of the police that this gang headed by Sivakumar was operating in and around the District by planting and extorting money from various farmers threatening that they would foist false cases of possession of banned forest products.

8. At this juncture, it may be relevant to state here that the Forest Officers are not police officers and any confession made to them is not hit by Section 25 of the Evidence Act, which must have perhaps emboldened these dacoits in uniform to take law into their hands and intimidate the innocent farmers.

9. The learned Additional Public Prosecutor submitted that there are other cases pending against the petitioners, namely Cr. No.678 of 2010 on the file of Pollachi East Police Station and Cr. No.568 of 2010 on the file of Pollachi West Police Station.

10. The FIR discloses that there are sufficient materials for the police to proceed further with the investigation and therefore, the same cannot be quashed in the light of the law laid down by the Supreme Court in State of Haryana vs. Bhajan Lal, [1992 (Supp.) 1 SCC 335].

In the result, this Criminal Original Petition is dismissed with a direction to the respondent police to complete the investigation in Cr. No.9 of 2011 expeditiously and take action in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

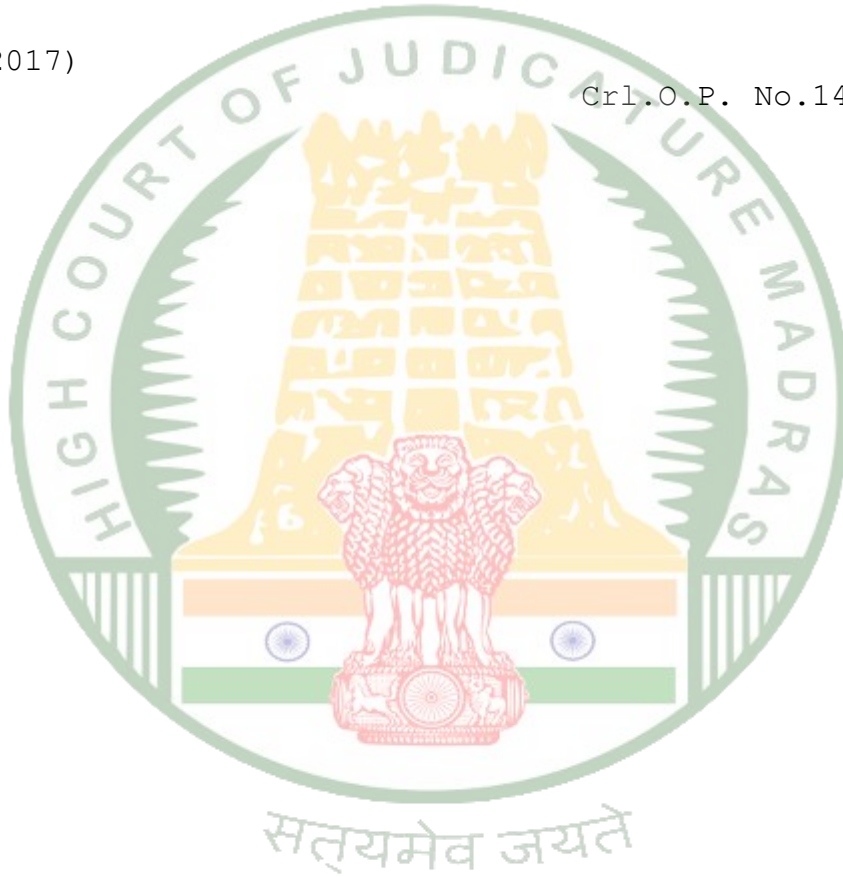
1.The Inspector of Police
District Crime Branch
Thiruppur.

2.The Public Prosecutor
High Court, Madras.

+1cc to Mr.Balakrishnan, Advocate, S.R.No.2014

LNS (CO)
RS (23/01/2017)

Crl.O.P. No.14140 of 2011



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