

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2017

(Orders reserved on 17.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.O.P.No.31569 of 2012

and

M.P.Nos.1 and 2 of 2012

1. T.Parameswaran
2. Kuppusamy
3. Cheziyan
4. Loganathan
5. Manokaran
6. Kanagaraj

... Petitioners/Accused 1 to 6

... Vs ...

1. State

Rep. by the Inspector of Police,
Erumapatti Police Station,
Namakkal District.

... 1st Respondent/Complainant

2. Gnanavel

... 2nd Respondent/De facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
to call for the records pertaining to C.C.No.121 of 2010 pending on the
file of the learned Judicial Magistrate No.1 at Namakkal and quash the

same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

For Petitioners : Mr.P.Kumaresan
for Mr.Ma.P.Thangavel
For R-1 : Mr.B.Ramesh Babu,
Government Advocate (Crl.Side)
For R-2 : No Appearance

ORDER

The accused Nos.1 to 6 are the petitioners herein.

2. This criminal original petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C.No.121 of 2010 pending on the file of the learned Judicial Magistrate No.1, Namakkal and quash the same as illegal, incompetent and without jurisdiction by allowing the present criminal original petition.

WEB COPY

3. The case of the prosecution is that since there was a civil dispute pending as to the possession of the land, on 01.08.2008 at about 1.00 p.m., the petitioners along with 20 other persons had come to the place of the second respondent with deadly weapons and

caused damage to his house and also to the roof put up by the second respondent. On the basis of the complaint given by the second respondent/de facto complainant, the first respondent police has registered a case in Crime No.269 of 2008 for the offences under Sections 147, 148, 427, 435 and 506(ii) IPC.

4. Learned counsel appearing for the petitioners submitted that on a bare perusal of the statements of witnesses will demonstrate that the petitioners are unconnected to the above said alleged offences and in view of the civil suit pending between the parties before the Civil Court in respect of the property, a false case has been foisted against the petitioners and hence, the learned counsel for the petitioners seeks for quashing of the case in C.C.No.121 of 2010.

5. Learned Government Advocate (Crl.Side) appearing for the first respondent submitted that after proper investigation, charge sheet has been laid and the same does not call for any interference by this Court at this stage.

6. Even though notice was served on the second respondent and his name is also printed in the cause list, he has not chosen to appear either in person or through counsel.

7. This Court has considered the rival submissions made by the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the first respondent and perused the records.

8. The petitioners are arrayed as A.1 to A.6 in the case in C.C.No.121 of 2010 pending on the file of the learned Judicial Magistrate No.1, Namakkal. The second respondent herein is the de facto complainant, who set the criminal law into motion alleging that on 01.08.2008 at about 1.00 p.m., while five named accused came in a TATA Indica car, 20 unknown persons came in a Mini Lorry bearing Registration No.TN-39-L-5616 along with deadly weapons to the land in question and they have uttered obscene words, criminally intimidated the de facto complainant, assaulted him and caused damage by setting fire to the shed of the de facto complainant. In his further statement, the de facto complainant had stated that six

named accused have come and on the date of alleged incident, in an angry mood, he gave exaggerated words about the incident and there was no fire incident and the persons does not carry any deadly weapons and the damage is only Rs.500/-. However, in his further statement recorded on 02.08.2008, the de facto complainant could state a different story. After investigation, the witnesses namely, Nallusamy, Karuppannan, Sivakumar, Mottaian and Ramasamy were examined and their statements have been recorded and in their statements, they have stated that some people came in a car and others came in a van and they did not carry any deadly weapon or any weapon at all and there is no criminal intimidation and those people, who assembled there, have cleaned the place which is a community place for the purpose of worship. It is specifically stated by the witnesses Nullusamy, Karuppannan, Shivakumar and Mottaiyan in their statements to the effect that none was armed with deadly weapons and they have arrived in a lorry and there was no damage except for removal of hut to the tune of Rs.500/- and hence, the first respondent police, after investigation, had filed alteration memo altering the Sections 147, 148, 427, 435 and 506(ii) IPC into Sections 147 and 427 of IPC. At this juncture, it is relevant to state that the Revenue

Divisional Officer, Namakkal, vide his proceedings in Na.Ka.No.7629/2008/A6, dated 30.10.2008, has cancelled the patta in favour of the de facto complainant on the ground that the land measuring 0.69.0 ares in Survey No.209/8 covered in patta No.228 of Ponneri Village, Namakkal Taluk, belongs to Karkala Samuthaya Nattanmai and by mistake, the name has been effected in favour of Thamaraikannan and Gnanavel, the de facto complainant. The Revenue Divisional Officer, Namakkal, in his proceedings in Na.Ka.No.4821/09/A6 dated 11.08.2009 also ordered for removal of encroachment in Survey No.209/8, which is also the subject matter of this criminal case and also the subject matter of the suit in O.S.No.432/2008.

9. On a combined reading of the submissions made by the learned counsel for the petitioners that due to the civil dispute pending before the District Munsif, Namakkal, in connection with the land in Survey No.209/8, the Revenue Divisional Officer has passed an order in respect of Survey No.209/08 stating that the said land belongs to community land of Karkala Samuthayam and the patta was mistakenly issued in the name of Thamaraikannan and in the name of

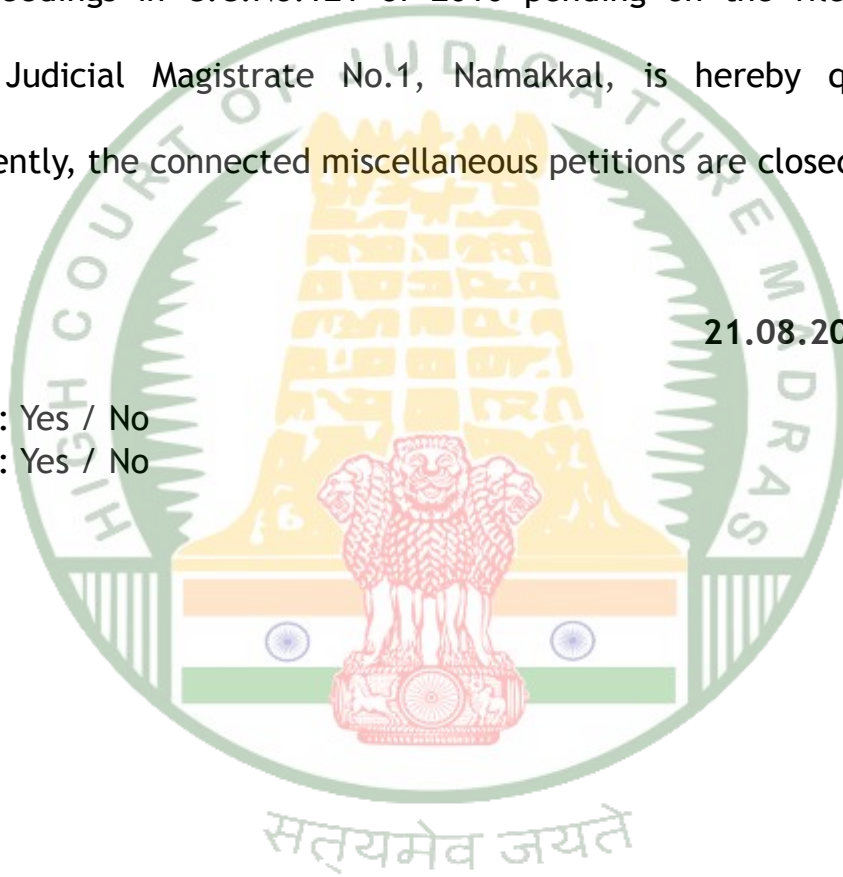
Gnanavel, the de facto complainant in view of the misrepresentation in survey numbers and accordingly, in connection with thereto now, the Revenue Divisional Officer seems to have taken necessary rectification order as stated above. After perusing the statement of witnesses and allegations contained in the complaint and in F.I.R., this Court finds that the uncontroverted statements made by the witnesses as extracted above, on the face of it, do not stand the scrutiny of the law and continuation of this Court will be nothing but abuse of process of the criminal action.

10. After going through the averments in the complaint and on a perusal of the statements given by the witnesses and also the revenue records of the R.D.O., this Court is of the considered view that the uncontroverted statements of witnesses, on the face of it, does not disclose any commission of crime and continuation of the case in C.C.No.121 of 2010 will amount to abuse of process of Court and hence, this Court is of the view that it is a fit case for quashing the proceedings by exercising the powers conferred under Section 482 of Cr.P.C.

11. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.121 of 2010 pending on the file of the learned Judicial Magistrate No.1, Namakkal, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

21.08.2017

Index : Yes / No
Internet : Yes / No
Jrl



WEB COPY

To

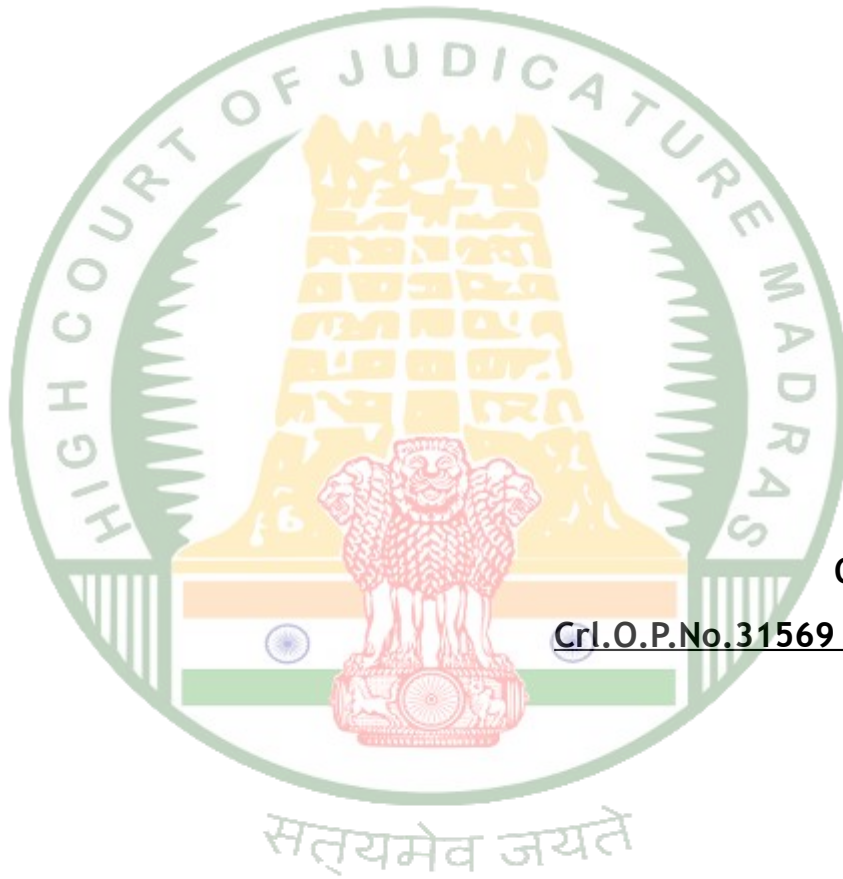
1. The Judicial Magistrate No.1,
Namakkal.
2. The Inspector of Police,
Erumapatti Police Station,
Namakkal District.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY

RMT.TEEKAA RAMAN, J.

Jrl



Order in

Crl.O.P.No.31569 of 2012

WEB COPY

21.08.2017