

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

Crl.O.P.No.6559 of 2015
and M.P.No.1 of 2015

1. Sundaramurthy
2. Murali
3. Manoharan ... Petitioners

Vs

1. The State rep. By
The Inspector of Police
D-2, Tiruvalankadu P.S.,
Tiruvalankadu Taluk & District,
Tiruvalankadu.
2. Ravi ... Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records of the FIR comprised in Crime No.78 of 2013 on the file of the Inspector of Police, Tiruvalangadu Police Station, Tiruvalangadu and quash the same as against all the accused.

For Petitioners: Mr.D.S.Ramesh

For Respondents

R1 : Mr.P.Govindarajan
Additional Public Prosecutor

R2 Mr.J.Thilagaraj

O R D E R

The prayer sought for in this petition is to call for the records of the FIR comprised in Crime No.78 of 2013 on the file of the Inspector of Police, Tiruvalangadu Police Station, Tiruvalangadu and quash the same as against all the accused.

2. It is the case of the petitioners that that land in Survey No.132/2 at Thiruvalangadu village belongs to them. Since there was a disturbance from the second respondent herein, they have filed a suit in O.S.No.28 of 2010 before the District Munsif Court, Tiruttani, wherein an order of interim injunction

has been granted in I.A.No.102 of 2010 on 26.03.2010. When the petitioners had cultivated their land and harvested paddy, the second respondent had given a complaint to the first respondent police stating that since the land belongs to him, the petitioners had committed theft of the second respondent's paddy. The first respondent had also registered a case in Crime No. 78 of 2013 against the petitioners herein for the offence under Section 379 of IPC which is impugned in the present petition.

3. When the Civil Court is seized of the matters and had granted an order of interim injunction, it would not be proper to permit the first respondent police to continue with the investigation and determine the question as to the legal possession of the petitioners or the second respondent. The factum of either possession or determination of title is vested only with the Civil Court and the first respondent may not be justified in venturing into these aspects.

4. The learned counsel for the second respondent opposed the said submission stating that the land in question belongs to the second respondent and that the petitioners have no right to harvest the paddy and therefore they have committed the offence of theft.

5. It is needless to point out that the offence of theft can be made out only if the defacto complainant establishes his legal right over the object property. Since the title over the subject property in Survey No.133/2 is under challenge and there is a rival claim over the title of the subject property, it would be appropriate for the parties to settle this dispute before the Civil Court. I am of the view that the first respondent-police is not vested with the power of determining the legal title or possession of the respective parties and hence the investigation in Crime No.78 of 2013 alleging the petitioners of stealing the harvested paddy, is liable to be quashed.

7. In the result, the criminal original petition stands allowed and the investigation in Crime No. 78 of 2013 on the file of the first respondent police is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police
D-2, Tiruvalankadu P.S.,
Tiruvalankadu Taluk & District,
Tiruvalankadu.

2. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.J.Thilagaraj, Advocate sr.73826

+1cc to Mr.D.S.Ramesh, Advocate sr.73918

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ss(27/10/2017)



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