

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.06.2017

CORAM
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CrI.O.P.No.28999 of 2010
and
M.P.Nos.1 and 2 of 2010

K.Palaniandavar

... Petitioner

vs.

K.Karuppasamy

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in P.R.C.No.6 of 2008, on the file of the learned Judicial Magistrate at Avinasi, Coimbatore District and quash the same as against the petitioner.

For Petitioner : Mr.V.G.Katheeban

For Respondent : Mr.L.Mouli

JUDGMENT

This criminal original petition is preferred by the petitioner/accused against the proceedings pending in P.R.C.No.6 of 2008 on the file of the learned Judicial Magistrate at Avinasi, Coimbatore District and quash the same.

2.I heard Mr.V.Jayaprakash Narayanan, learned counsel for the petitioner and Mr.L.Mouli, learned counsel for the respondent and perused the entire materials available on record.

3.Brief case of the petitioner/accused

The facts of the case is that the petitioner is a land lord and having agricultural land in S.No.82/1 of Nairampalli village, Avinasi Taluk. The respondent/complainant and some other of his associates were living nearby the land of the petitioner/accused by putting huts. The respondent/complainant approached the Government authorities for issuing patta in respect of their house sites and the same is pending. During the year 2006, the petitioner alleged to have put up fencing for his land for which the respondent and others objected to put fencing. The respondent and others filed a civil suit in O.S.No.219 of 2006, 220/2006, 231/2009 before the District Munsif

at Avinasi for injunction restraining the petitioner from interfering with the possession and enjoyment of respondent and others and the same is pending. On 14.10.2006 the petitioner/accused came to the area of the respondent and he had insulted one Pannari by calling his community name and made criminal intimidation. Though a complaint was given to the police no action was taken.

4.Finally, a case has been registered against the respondent and others on the complaint of petitioner in Cr.No.843 of 2006 under section 147,148, 294(b) 427,441, 506(ii) of IPC in pursuance of direction given by Judicial Magistrate Avinasi. On 22.5.2007 the petitioner/accused with the assistance of VAO, Inspector of Police has removed the huts with bulldozer. The respondent sent complaints to the higher police officials. There was no action in those complaints and the respondent filed this private complaint before the trial court. The learned Judicial Magistrate, Avinasi has taken cognizance on the complaint of the respondent for alleged offence under sections 3(1)(x) of Schedule Caste and Schedule Tribes Act 1989 Act, 427, 506(ii) of IPC and assigned PRC No 6 of 2008 issued summons to the petitioner/accused for further proceedings. Aggrieved over the same, this quash petition is filed.

5.The learned counsel for the petitioner/accused submits that the allegations and averments set forth in the complaint and the statements leveled as against the petitioner are false and concocted for the purpose of making out a criminal case to entangle the petitioner and thereby coerce him to pay huge sums to the defecto complainant.

6.The learned counsel for the petitioner/accused submits that with very same set of allegations found in the private complaint two FIRs registered against the petitioner in Cr.No.101 of 2008 for an alleged offence under section 352,441,448 of IPC on 8.3.2008 and an offence under section 3(1)(x) of SC/ST act before the Inspector of Police, Avinasi police station in Cr.No.547 of 2007 and both the above cases closes as mistake of fact. In both the above cases the respondent was examined as one of the witness by the investigation officers respectively. The only difference between the earlier complaints and present private complaint is that the present complaint filed is filed by other then the earlier person.

7.The learned counsel for the petitioner/accused submits that the complaint in PRC.No.6 of 2008 ought to have been quashed since the alleged motive for insulting the respondent is relating a dispossession and removal of huts over the property of Government land and the core of dispute is between the respondent and the authorities of Government and the petitioner is no way connected with the alleged civil dispute.

8.In the case on hand, I am not inclined to interfere at this stage. Because, all these points are to be agitated only before the trial Court since all these points are to be dealt with only by the trial Court. In fact the petitioner is no way connected with the civil dispute and hence the petitioner ought to prove his innocence only before the trial Court.

10.In the result, this criminal original petition is dismissed. The trial court is directed to dispose the P.R.C.No.6 of 2008 on the file of the learned Judicial Magistrate, Avinasi, Coimbatore District within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate,
Avinasi,
Coimbatore District.

2.Avinasi,
Coimbatore District.

3.The Section Officer,
Criminal Section,
High Court,
Madras - 104.

Cr1.O.P.No.28999 of 2010
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rrs 18/03/2019

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