

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.9915 of 2016

and

Crl.M.P.Nos.5235 and 10494 of 2016

1.P.Selvaraj
2.P.Yuvaraj
3.P.Jayakumar
4.P.Srinivasan

... Petitioners/Accused 1 to 4

Vs

1.The State
by the Inspector of Police,
Alandurai Police Station,
Coimbatore District. ...R1/Complainant

2.Mohanraj ...R2/Defacto Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in FIR No.149 of 2016 on the file of the Inspector of Police, Alandurai Police Station, Coimbatore District and quash the same.

For Petitioners : Mr.K.Balaji

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor for R1

Mr.P.M.Duraisamy for R2

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to Crime No.149 of 2016 on the file of the first respondent and quash the same.

2.This is an issue related to theft of red soil from the land bearing S.Nos.618 and 625, Puluvaipatti Village, Coimbatore, measuring to an extent of 5.59 ¼ acres, which is belonging to the de facto complainant. A complaint was lodged by the de facto complainant on which basis the First Information Report in Crime No.149 of 2016 came to be registered and the respondent police

authorities proceeded accordingly. Resisting the allegation levelled in the complaint, the present petitioners / accused 1 to 4, approached this Court by filing this Criminal Original Petition for quashing the First Information Report.

3.This Court initially granted interim stay and directed the petitioners to take private notice and upon service, the de facto complainant appeared and filed the petition in Crl.M.P.No.10494 of 2016 to vacate the interim order and for passing final orders.

4.The learned counsel for the petitioners has submitted that the father of the petitioners and the father of the de facto complainant are own brothers and the property in which the red sand is alleged to have been taken is an ancestral property, which was partitioned between them by a decree dated 10.10.2007 passed in O.S.No.321/1993 by the I Additional District Judge, Coimbatore, and they are in separate possession and enjoyment of their respective properties. He further submitted that there is a canal by name "urripallam" adjacent to the said land and due to the rains and floods, there was huge water flow in the canal which led to erosion of the red sand in the land in question. He also submitted that already there are disputes between both the families and due to the same, in order to harass the petitioners, under the connivance of the first respondent police, the de facto complainant registered a false complaint with mala fide intention to cause bad reputation to the petitioners.

5.Learned counsel for the second respondent / de facto complainant, submitted that the entire documentary evidence as well as the compact disc containing all the details had already been placed before the police authorities, but the same had not been considered and acted upon.

6.On the other hand, it is the specific contention of the petitioners / accused that without any rhyme or reason, and not supported by any documentary evidence, a bald allegation of removal of red soil is levelled. It is also their case that a common extent of 50 cents only is utilised by both the parties and there is no question of removal of red soil, there.

7.On a perusal of the materials available on record, it is seen that the allegation levelled against the petitioners / accused is unauthorised removal of red soil for a quantity of 5371 units. Such removal of soil is impermissible under the Tamil Nadu Minor Mineral Concession Rules and the same cannot take place without having a valid permit / license. Further it is seen that the father of the petitioners and the father of the de facto complainant are own brothers.

8.Considering the facts and circumstances of the case, this Court is of the firm view that this matter has to be looked into by the investigating authority relying upon various materials, documents and also by calling the supporting witnesses. Unless a detailed enquiry is conducted, truth will never come to light. Hence, this Court directs the first respondent police to investigate the issue, collect all the details and proceed in accordance with law, so as to arrive at a conclusion finally. For arriving at such final conclusion, both the parties are directed to cooperate with the investigating authority. Under the guise of investigation, no party shall be threatened or harassed. On the other hand, it is open to the respondent police authorities to complete the investigation based on the materials and other witnesses. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is also made clear that both the parties shall place their materials before the police authorities so as to complete the investigation at an early date.

9.The Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petitions are closed.

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Assistant Registrar

/true copy/

Sub Assistant Registrar

KM

To

1.The Inspector of Police,
Alandurai Police Station,
Coimbatore District.

2.The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+1cc to Mr.P.M.Duraisamy, Advocate SR.No.1074.

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