



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD) No.11616 of 2017

and

CRL.MP. (MD) Nos.7984 and 7985 of 2017

WEB COPY

- 1.Esrel
- 2.Sathyanathan
- 3.Jeyarani
- 4.Vedhamani
- 5.Jeyamani
- 6.Machel
- 7.Pilavendran
- 8.Sabasthiyammal
- 9.Sebasthiyar
- 10.Mohanraj
- 11.Palraj
- 12.Leo
- 13.Albert Amalraj
- 14.Rani
- 15.Ananthan

...Petitioners/Accused Nos.2 to 11
& 13 to 17

Vs.

Savarimuthu

...Respondent/ Complainant

PRAYER: This Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying this Court to call for the records relating to the S.C.No.159 of 2016 on the file of the Principal District and Sessions Court, Thanjavur and quash the same.

For Petitioner : Mr.K.Samidurai

O R D E R

This Criminal Original Petition has been filed to quash the proceedings with regard to the private complaint, on the file of the Principal District and Sessions Court, Thanjavur in S.C.No.159 of 2016.

2.It is the case of the petitioner that the defacto complainant has given a complaint against the petitioners before the Sengipatti Police Station and a case was registered in Cr.No.45 of 2008 for the offences under Sections 147, 427, 435, 294(b) and 506(ii) IPC. After registration of the case, the complaint was closed as mistake of fact. Another complaint was also lodged by the petitioners as against the complainant and the police registered an FIR in Cr.No.44 of 2008 for the offences under Sections 148, 147, 354, 294(b), 3(1) of TNPPDL Act and 506 (ii) IPC stating that the defacto complainant was the aggressor. This petition is filed to quash the private complaint.



3. It appears that the petitioners are co-owners and are all relatives. The petitioners state that a suit for partition was filed in O.S.No.582 of 2004, in which the petitioners 3 and 4 are the plaintiffs and the second defendant in the said suit is the vendor of the defacto complainant. It is stated that in the suit for partition, pursuant to the preliminary decree, a final decree was also passed on 03.02.2007.

4. The defacto complainant purchased the properties from one of the defendants in the suit and claimed to be in possession of a portion of the suit property by putting a small hut. It appears that based on the final decree passed making allotment of the properties as among the parties in the suit, dispute arose between the petitioners on the one side and the defacto complainant on the other side. Even in the complaint lodged by the defacto complainant, it is stated that he was residing in the hut in one of the suit items. It was also stated that there was an attempt to evict the defacto complainant from the temporary structure and that the property of the defacto complainant was also demolished. The defacto complainant further states that the whole attempt was made despite the fact that an order of injunction was obtained by the defacto complainant in yet another suit filed by him in O.S.No.66 of 2008 on the file of the District Munsif Court, Tanjore.

5. In the said circumstances, this Court find that the private complaint discloses a cognizable offence and that it cannot be thrown out based on the final decree that was passed in the suit filed by some of the petitioners. Merely because the earlier complaint that was given by the defacto complainant was closed, the maintainability of the private complaint cannot be questioned in the present proceedings. A complaint, which discloses a cognizable offence, definitely requires a thorough investigation and the same cannot be quashed, merely because the facts stated in the complaint are in dispute and that the complaint is not sustainable on probabilities.

6. In view of the above matter, this petition is dismissed. However, the appearance of the petitioners is dispensed with unless or until their appearance is required by a specific order of the Court. Consequently, CrI.M.P.(MD) Nos.7984 and 7985 of 2017 are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The Principal District and Sessions Judge,
Principal District and Sessions Court,
Thanjavur.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RM

VB/MR/KKR/SAR3/15/09/2017/3P/3C

ORDER MADE IN
CRL.OP (MD) No.11616 of 2017
01.09.2017