



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.15386 of 2017

1.K.P.Poopaal Asan
2.K.P.Jeyapaul Asan
3.Johnsisu Mary
4.P.Jegatheeswari

: Petitioners

-Vs-

1. State rep. by
The Sub Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

2. Stanely Baburaj

: Respondents

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to C.C.No.139 of 2007 on the file of the learned Judicial Magistrate, Padmanabhapuram.

For Petitioner : Mr.C. Sankarprakash
For Respondent No.1 : Mr.K.S.Durai Pandian
Additional Public Prosecutor

O R D E R

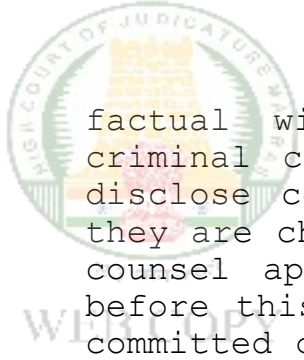
This petition is filed for quashing the proceedings in C.C.No.139 of 2017 on the file of the learned Judicial Magistrate, Padmanabhapuram.

2. The petitioners are accused nos. 1 to 4 in the criminal proceedings. Based on the complaint lodged by the second respondent, a case was registered and after filing charge sheet, the case was taken on file in C.C.No.139 of 2017 on the file of the learned Judicial Magistrate, Padmanabhapuram, for the offences under Sections 447,427,294(b) and 506(ii) of IPC.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The petitioners have made several allegations which are



factual with regard to his claim over the property in dispute. The criminal complaint as well as the charge sheet, however, clearly disclose cognizable offences as against the petitioners for which they are charged. On the basis of the submissions of the learned counsel appearing for the petitioners and the materials produced before this Court, this Court cannot decide whether the offence is committed or not at this stage. The petitioners are at liberty to establish their case at the time of trial and the proceedings cannot be quashed by this Court without giving sufficient opportunity to second respondent to prove the charges against the petitioners. In that view of the matter, the Criminal Original Petition is dismissed.

5. The learned counsel appearing for the petitioners however, submitted that that matter is purely civil in nature and that the petitioners have already established their right by virtue of Judgment of the Civil Court. It was therefore submitted that the appearance of the petitioners may be dispensed with. It is open to the petitioners to file an application before the lower Court and the Court will pass appropriate orders on merits. Consequently, Crl.MP(MD)Nos.7278 and 7279 of 2016 are also dismissed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1.The Sub Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

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

+ 1 CC TO Mr.C.SANKAR PRAKASH, ADVOCATE IN SR No. 81784

TRP
TE/JC/SAR-I : 25/10/2017 : 2P/4C

CRL.O.P. (MD) No.15386 of 2017
06.10.2017