



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP (MD) No.8265 of 2017

M.P.Murugaiah Pandian : Petitioner/Complainant

Vs.

1.State represented by,
The Inspector of Police,
South Police Station,
Rajapalayam,
Virudhunagar District. : Respondent/Respondent

2.V.Murugan
3.Rajalingam
4.Muniyaraj
5.Karuppasamy
6.M.Paul : Respondents 2 to 5/Accused

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to set aside the order passed in Cr.M.P.No.3333 of 2017 on the file of Judicial Magistrate, Rajapalayam, Virudhunagar District dated 07.04.2017.

For Petitioner : Mr.G.Karuppasamy Pandian
For R1 : Mr.K.Anbarasan,
Government Advocate(Crl.Side).
For R2 to R6 : Mr.G.Thalaimutharasu

O R D E R

This Criminal Original petition is filed for setting aside the order passed in Cr.M.P.No.3333 of 2017 on the file of Judicial Magistrate, Rajapalayam, Virudhunagar District dated 07.04.2017.

2. Heard the learned counsel appearing for the petitioner, the learned Government Advocate(Criminal side) appearing for the first respondent and the learned counsel appearing for the respondents 2 to 6.

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3. The case of the petitioner is that in connection with the



temple festival, some of the respondents constructed an arch on 06.03.2017 and tried to write something to show that the arch belongs to a particular community. It is further submitted that this created chaos and unwanted atmosphere among the villagers. Therefore, the petitioner and others sent petitions to Revenue Authorities and Police officials to take necessary action against the respondents. It is further alleged that the respondents 2 to 6 came to the petitioner's street on 08.03.2017 and caused severe damage to the water tank and water pipe line which was meant for common purpose and which was the only source of water to the entire village. Though the petitioner filed a petition before the learned Judicial Magistrate, Rajapalayam, under Sections 156(3) of Cr.P.C, to direct the registration of the criminal case under Sections 153, 506 (ii), 294(b) of IPC r/w. Section 3 of TNPPDL Act. It is submitted that the Judicial Magistrate, Rajapalayam, dismissed the petition on the ground that no document is filed to prove that the properties were damaged.

4. The complaint that was preferred by the petitioner to the Superintendent of Police on 15.03.2017 discloses cognizable offences. The Block Development Officer who enquired pursuant to the relevant incident, has also expressed his opinion in his proceedings that the respondents have caused loss / damage to the public property. Apart from the offence under Section 3 of TNPPDL Act, there are serious allegations involving some individuals in serious crime. The learned Judicial Magistrate, Rajapalayam, without considering the allegations as a whole attracting various provisions of the Act, dismissed the petition only on the ground that no documentary proof was made available to the Court to register the case. The approach of the learned Judicial Magistrate, Rajapalayam, is clearly erroneous as seen from the report of Block development Officer. The existence of any material to prove the allegation is not required even for registration of a criminal case. In that view of the matter, this Court is not able to appreciate the contention of the learned counsel for the respondent justifying the order passed by the learned Judicial Magistrate, Rajapalayam. Hence, the order made in Cr.M.P.No.3333 of 2017, dated 24.04.2017, is set aside and this Criminal Original Petition is allowed. The first respondent is directed to register the Criminal Case, on the basis of the complaint, dated 15.03.2017.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar



1. The Inspector of Police,
Government of Tamil Nadu,
South Police Station,
Rajapalayam,
Virudhunagar District.
2. The Judicial Magistrate,
Rajapalayam,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.KARUPPASAMY PANDIAN, ADVOCATE IN SR No. 69613
+ 1 CC TO Mr.G.THALAIMUTHARASU, ADVOCATE IN SR No. 70903

DSS/SRM

TE/SV-AA/SAR-I : 09/08/2017 : 3P/6C

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