



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2017

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CrI.O.P. (MD) No.10573 of 2011

and

M.P. (MD) No.1 of 2011

1.N.Vaidyanathan

2.H.Sujith

... Petitioners/Accused

Vs.

K.Raghu

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order made in Cr.M.P.No.2760 of 2011 by the Judicial Magistrate No.I, Tirunelveli, dated 30.05.2011.

For Petitioners	: Mr.Vijayalaya Adithiyan
For Respondent	: No Appearance

ORDER

The Petitioners filed this petition under Section 482 of Cr.P.C., to set aside the order made in Cr.M.P.No.2760 of 2011 dated 30.05.2011 on the file of the learned Judicial Magistrate No.I, Tirunelveli,.

2.The respondent herein filed the complaint under Section 190 (1)(A) and 200 of Cr.P.C., before the learned Judicial Magistrate No.I, Tirunelveli in Cr.M.P.No.2760 of 2011. After receiving the complaint on 30.05.2011, the learned Judicial Magistrate perused the records and found the *prima facie* case to proceed against the petitioners herein in accordance with law. Accordingly, after satisfaction the learned Judicial Magistrate forwarded the complaint to the Inspector of Police, Perumalpuram Police Station for necessary action. He further directed the law enforcing agency to register the case and investigate the same and also directed to collect the materials and send the same to the concerned Court periodically. The said order reads as follows:

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

"Heard petitioner side. Records perused. This Court find prima facie case to be proceed as against this



respondent in accordance with law. Hence, this Court is hereby inclined to forward this complaint to the Inspector of Police, Perumalpuram Police Station for necessary action.

Accordingly, this complaint is hereby forwarded to the Inspector of Police, Inspector of Police, Perumalpuram Police Station receipts of this complaint. He has to register a case and investigate the same. Collect necessary material evidence and sent it to this Court periodically. At last, he has to file his final report under Section 173 of Cr.P.C.

He should not be hurried in arresting the accused as like other cases. After collection of necessary evidence. He may arrest the accused if necessary.

The investigation shall be completed within 60 days from the date of receipt of this complaint without fail."

Against which, the present criminal original petition has been filed.

3.The learned counsel appearing for the petitioners submitted that already there was civil dispute between the petitioners and the respondent, for which, a suit has also been filed in O.S.No.193 of 2011 and the same is also pending before the District Munsif Court, Ambasamudram for very same subject. With this ulterior motive, the respondent filed private complaint and the same was forwarded to the law enforcing agency, is bad in law.

4.Though notice was ordered to the respondent, the same was returned as 'left'. However, on the perusal of the order passed by the learned Judicial Magistrate No.I, Tirunelveli, I do not find any error in the said order directing the law enforcing agency to register the complaint against the petitioners. The petitioners can seek for remedy after registration of the FIR or charge sheet. The remedy to the petitioners have lie before this Court or the lower Court. Without availing such remedy as against the conclusion of investigation approaching this Court by filing this petition under Section 482 of Cr.P.C., does not arise. Hence, I do not find any merits to entertain this Criminal Original Petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



The Judicial Magistrate No.I,
Tirunelveli.

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 90361

MRN

TE/KP/SAR-2 : 15/12/2017 : 3P/3C

CrI.O.P. (MD) No.10573 of 2011 and
M.P. (MD) No.1 of 2011
29.11.2017