



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.08.2017
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Cr1.R.C(MD).No.533 of 2013
and
M.P.(MD)No.1 of 2013

1.Manickam Chettiar
2.Sethuraman @ Punniamoorthy
3.Piraisoodi

... Petitioners/Accused

-Vs-

1.State represented by
The Sub-Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.

... Respondent No.1

2.Chinthamani Aachi
(2nd respondent is impleaded vide Court order dated 07.08.2017)

... Respondent No.2

Prayer : Criminal Revision Case filed under Section 397 and 401 of the Code of Criminal Procedure, praying to call for the records in Cr.M.P.No.1760 of 2013 dated 21.03.2013 on the file of the Judicial Magistrate, Keeranur in Crime No.501 of 2006 on the file of the respondent police and set aside the same.

For Petitioners	: Mr.R.Paranjothi
For Respondent	: Mr.C.Mayilvahana Rajendran Additional Public Prosecutor
For Defacto Complainant	: Mr.N.R.Murugesan

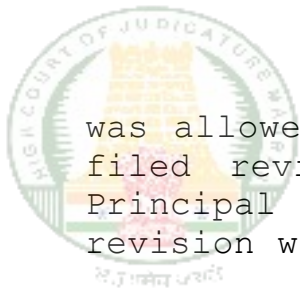
O R D E R

This Criminal Revision Case has been filed by the petitioners, challenging the order passed in Cr.M.P.No.1760 of 2013, dated 21.03.2013, to restore the complaint, which was earlier closed under Section 468(2) of Cr.P.C.

2(i). The petitioners are accused in Crime No.501 of 2006 on the file of the respondent police. FIR has been registered against them under Section 379 of I.P.C on 16.11.2006, on the ground that the petitioners herein cut and removed 96 teak trees from the land of the defacto complainant. Since no final report was filed within the limitation period, the learned District Munsif cum Judicial Magistrate, Keeranur, by an order dated 25.05.2011, closed the complaint under Section 468(2) of Cr.P.C.

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

2(ii). In the mean time, the Defacto-complainant filed a petition seeking interim custody of the teak trees, that petition



was allowed by the trial Court. Challenging the same, the accused filed revision in CrI.R.C.No.55 of 2007, on the file of the Principal District and Sessions Court, Pudukkottai, but, the revision was dismissed as not-maintainable.

2(iii). Challenging the same, the petitioners herein filed a Criminal Original Petition before this Court in CrI.O.P.(MD) No.2449 of 2010 and this Court, by an order dated 01.11.2011, remitted the matter to the Judicial Magistrate Court, Keeranur, for fresh disposal of the petition on the ground that the learned Judicial Magistrate did not hear the petitioners herein before passing the order. Thereafter, the respondent police filed an application to restore the criminal case on file, which was closed earlier. The learned judicial Magistrate also allowed the application thereby restoring the criminal case on file for further investigation. Now challenging the order, the present revision has been filed.

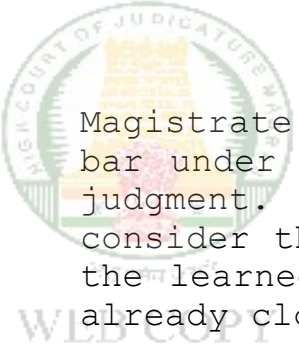
3. Heard Mr.R.Paranjothi, learned counsel for the petitioners, Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondent and Mr.N.R.Murugesan, learned counsel for the defacto-complainant.

4. The learned counsel for the petitioner would submit that the learned Judicial Magistrate already closed the complaint under Section 468 (2) Cr.P.C. by passing a Judicial order, in the above circumstances, in view of the bar under Section 362 Cr.P.C., the learned Judicial Magistrate cannot reopen the case. Apart from that, the other proceedings initiated by the defacto-complainant only for the return of property, for that purpose, there is no need to continue the investigation.

5. The learned counsel for the respondent and defacto-complainant would contend that even though the complaint has been closed by the learned Judicial Magistrate earlier, this Court directed the learned Judicial Magistrate to take up this application filed for return of property pursuant to the order passed by this Court. The learned Judicial Magistrate has reopened the case. Hence, the bar under Section 362 Cr.P.C. will not come into play. The learned counsel further submitted that even under Section 473 Cr.P.C., the learned Judicial Magistrate has power to extend the time for investigation. In the above circumstances, there is no illegality and irregularity in the order passed by the Court below.

6. I have considered the rival submissions.

7. It is seen that the learned Judicial Magistrate, by an order dated 05.11.2011, closed the complaint under Section 468(2) on the ground that it is barred by limitation. After closing the complaint by passing a judicial order, the learned Judicial



Magistrate is barred from restoring the complaint. In view of the bar under Section 362 Cr.P.C., he cannot alter or review his own judgment. This Court only directed the Judicial Magistrate to consider the application for return of property. For that purpose, the learned Judicial Magistrate cannot reopen the case, which was already closed by a judicial order.

8. In view of the same, the order passed by the Court below is totally illegal and it is liable to be set aside.

9. In the result, this Criminal Revision Case is allowed. The order passed by the Court below is set aside.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Keeranur.

2.The Sub-Inspector of Police,
Viralimalai Police Station,
Pudukkottai District.

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

+1cc to M/S.N.R.Murugesan, Advocate SR.No. 70915

+1cc to M/S.K.Baalasundharam, Advocate SR.No. 71025

Crl.R.C(MD).No.533 of 2013

(1/2)

07.08.2017

sm

JM/JC/SAR 2/31.10.2017/3P/6C