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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.07.2018
Pronounced on : 12.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.17394 of 2011
and
M.P.No.1 of 2011

- 1.Poosari Maran @ Maran,
S/o.Guaravan.
- 2.Kandasamy,
S/o.Gurunathan.
- 3.Marimuthu @ Minor.Marimuthu,
S/o.Seerangan.
- 4.Kanniappan,
S/o.Guaravan.
- 5.Ponnusamy,
S/o.Kandasamy.
- 6.Karuppan,
S/o.Kittan.
- 7.Raman,
S/o.Seerangan.

... Petitioners/A-Parties

Vs.

State by Inspector of Police,
Anthiyur Police Station,
Anthiyur,
Erode District.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order dated 02.03.2011 passed by the Sub-Divisional Magistrate cum Revenue Divisional Officer, Gobichettypalayam, Erode District, made in M.C.No.33/11 A2 and quash the same.



For Petitioners : Mr.S.Senthilnathan
For Respondent : Mrs.V.Saratha Devi
Government Advocate (Crl. Side)

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O R D E R

The petitioners, who are A-Parties in order dated 02.03.2011 made in M.C.No.33/11 A2 passed by the Sub-Divisional Magistrate cum Revenue Divisional Officer, Gobichettypalayam, Erode District has filed the above quash petition.

2.The contention of the learned counsel for the petitioners is that the Sub-Divisional Magistrate cum Revenue Divisional Officer, Gobichettypalayam, Erode District had initiated action against the petitioners ('A' Parties) under Section 145 of the Code of Criminal Procedure. He further submitted that there is a dispute in Koodumaiyanur Village, Anthiyur Circle between the 1st petitioner and one Gurusamy in respect of cart track in R.S.No.977/4 and also encroachment was made and there was a problem on 05.02.2011, in connection with the same, a case was pending in the Civil Court, despite the pendency of the case in Civil Court, there have been often disputes between both the parties which created disturbance of peacefulness and normalcy and also often quarrelling and approaching the police one by one and likely to cause breach of public peace and tranquillity.

3.He further submitted that on the information submitted by the respondent/complainant, the Sub-Divisional Magistrate cum Revenue Divisional Officer, Gobichettypalayam, Erode District has initiated proceedings under Section 145 of the Code of Criminal Procedure against the petitioners, directing the petitioners to appear on 03.03.2011.

4.Further contention of the learned counsel for the petitioners is that already Gurusamy ('B' Parties) had approached the Civil Court by filing O.S.NO.56 of 2011 before the District Munsif Court, Bhavani, Erode District and which is now pending. In view of the pendency of the Civil Suit, the Sub-Divisional Magistrate cum Revenue Divisional Officer, Gobichettypalayam, Erode District failed to take note, when the Civil Court has seized of the same, the order dated 02.03.2011 passed under Section 145 of Code of Criminal Procedure is without application of mind and the order does not reflect subjective satisfaction and mechanically passed the order.

5.The learned Government Advocate (Crl. Side) for the respondents has filed a status report stating that pursuant to the F.I.R registered by the respondent/complainant, a Criminal Case was filed against the petitioners and after completion of



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investigation a charge sheet has been filed before the learned Judicial Magistrate, Bhavani, Anthiyur in C.C.No.3 of 2012 and the trial Court has passed an order on 22.01.2018 acquitting all the accused under Section 248(1) Code of Criminal Procedure in the above case.

6.He further submitted that, the complaint is given by one Maran belongs to 'A' Party before the Anthiyur Police Station, a case was registered in Crime No.87 of 2011 and after completion of investigation a charge sheet has been filed before the learned Judicial Magistrate, Bhavani, Anthiyur and the same was taken on file in P.R.C.No.3 of 2012 and then the case was committed to the learned Principal District Judge, Erode and assigned as S.C.No.169 of 2012 was also acquitted all the accused in above said case on 22.01.2018.

7.In view of the above and on perusal of the materials, it could be seen that nothing survives for adjudication in this case and accordingly, this Criminal Original Petition stands closed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub-Divisional Magistrate cum Revenue Divisional Officer,
Gobichettypalayam,
Erode District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Senthilnathan, Advocate, S.R.No.71033

Cr1.O.P.No.17394 of 2011

GSP(26/11/2018)