

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :09.10.2018

CORAM
THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.OP.No.26733 of 2014
and
MP.No.1 of 2014

1.Kannan
2.Ravi
3.Ganesan
4.Natarajan
5.Manikkam
6.Kesavan
7.Venkatesan
8.Duraisamy

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Kanchipuram.

2.The Sub Inspector of Police,
G-11, Peru Nagar Police Station,
Uthiramerur Taluk,
Kanchipuram District.

3.Rani

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to quash the FIR in Crime No.106 of 2013 dated 28.12.2013 and its consequential proceedings on the file of the second respondent.

For Petitioner : Mr.D.Murthy

For Respondents : Mr.T.Shunmuga Rajeswaran
Government Advocate (Crl.Side)
for R1 & R2

: Mr.Y.Jyothish Chander for R3

ORDER

This petition has been filed by the 'B' party to quash the FIR in Crime No.106 of 2013 on the file of the second respondent.

2.The learned counsel for the petitioners has submitted that there is a landed property of vacant house site comprised in Gramanatham Survey No.194/7 measuring about 159 sq.meters in Sethupattu village, Uthiramerur Taluk, Kanchipuram District. He

further submitted that in the said land, there is a Vinayagar Temple and with regard to the same, already a Civil Suit has been filed by the third respondent and the same is still pending. He further submitted that the petitioners herein have filed Crl.OP.No.817 of 2014 before this Court to direct the Tahsildar, Uthiramerur Taluk to initiate proceedings under Section 145 of Cr.P.C and the same has been allowed. Accordingly, the Tahsildar, Uthiramerur Taluk has initiated proceedings under Section 145 Cr.P.C and challenging the same, the husband of the third respondent has filed Crl.R.C.No.353 of 2015 before this Court and the same was allowed on 07.07.2015 and the proceedings which were initiated under Section 145 of Cr.P.C had been quashed. He further submitted that on 28.12.2013, the second respondent has registered a case in Crime No.106 of 2013 under Section 107 of Cr.P.C., wherein the petitioners herein have been arrayed as 'B' party and the third respondent herein has been arrayed as 'A' party. He further submitted that in pursuance of the said FIR, the second respondent has arrested both the parties and subsequently, they were released on bail. He further submitted that without referring the matter to the Executive Magistrate, the second respondent has issued summons to the petitioners directing them to appear before the Revenue Divisional Officer, Kanchipuram, on 27.08.2014 for the purpose of enquiry under Section 107 of Cr.P.C and therefore he prayed to quash the said FIR.

3. The learned counsel for the third respondent has adopted the arguments advanced by the learned counsel for the petitioners.

4. The learned Government Advocate (Crl.Side) who is appearing for the respondents 1 and 2 has fairly conceded that no proceedings initiated before the Revenue Divisional Officer, Kanchipuram under Section 107 of Cr.P.C.

5. As per Section 107 of Cr.P.C. the police can refer the matter to the Executive Magistrate, and it is for the Executive Magistrate to take further action, but, in this case, the second respondent after registering the case under Section 107 of Cr.P.C had arrested the parties. However, subsequently he released them on bail. Further, he himself has issued summons to the petitioners and the third respondent directing them to appear before the Revenue Divisional Officer, Kanchipuram for enquiry under Section 107 of Cr.P.C.

6. As per the submissions made by the learned Government Advocate (Crl.Side), actually no proceedings initiated before the Revenue Divisional Officer under Section 107 of Cr.P.C. In such a case, the second respondent should not have issued summons. Further, already the Civil Court has seized the matter. It is also to be pointed out that the proceedings which were

initiated under Section 145 of Cr.P.C had already been quashed by this Court in Cr.R.C.No.353 of 2015.

7. Taking into consideration of the aforesaid facts, this Court is of the view that the action of the second respondent is totally against the provisions of law. Therefore, the said F.I.R has to be quashed.

8. In the result, this petition is allowed, F.I.R in Crime No.106 of 2013 on the file of the second respondent is quashed. Consequently, connected miscellaneous petition MP.No.1 of 2014 is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

jen/vv

To

1.The Revenue Divisional Officer,
Kanchipuram.

2.The Sub Inspector of Police,
G-11, Peru Nagar Police Station,
Uthiramerur Taluk,
Kanchipuram District

3.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.Y.Jyothish Chander, Advocate, S.R.No.69497

+1cc to Mr.D.Murthy, Advocate, S.R.No.70007

सत्यमेव जयते

CrI.OP.No.26733 of 2014

and

MP.No.1 of 2014

RK(CO)

rrs 27/11/2018

WEB COPY