

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.29162 of 2018
and
Crl.M.P.No.17070 of 2018

K.Easwaramoorthy,

... Petitioner

Vs.

1. State rep.by
The Inspector of Police,
Palladam Police Station,
Tiruppur District.
(Cr.No.31 of 2013)

2. The Tahsildar,
Taluk Office,
Palladam Taluk,
Tiruppur District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of CrI.P.C, to call for the records relating to the impugned FIR in Crime No.31/2013 on the file of the 1st respondent Police, quash the same.

For Petitioner : Mr.K.Govi Ganesan,

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Cr.No.31 of 2013 on the file of the first respondent Police.

2. The second respondent namely the Tahsildar of Palladam Taluk has given a complaint to the respondent police on the ground that the property in survey No.31/1B, 1D belongs to Sri

Hanumantharaya Swami Temple and the petitioner has committed a criminal trespass into the property and has also caused destruction to the property by breaking the boundary stones and carrying out agricultural activities. The F.I.R. was registered for an offence under Section 447 IPC r/w Section 3(1) of TNPPDL Act,1992. The F.I.R. was registered in the year 2013 and till date no final report has been filed.

3. The learned counsel for the petitioner would submit that with regard to the very same property, the petitioner filed a suit in O.S.No.14 of 2013 on the file of the District Munsif Court, Palladam against the District Collector, Tiruppur and the Tahsildar, Palladam, seeking for the relief of declaration of title and permanent injunction. The learned counsel also brought to the notice of this Court that the subject matter of the suit is also in survey No.31/1B, 1D. The suit was contested by the official defendant and ultimately a Judgment and Decree dated 28.11.2013, came to be passed in favour of the petitioner. The learned counsel for the petitioner would submit that this Judgment and Decree has become final and no further appeal has been filed by the defendant.

4. The learned counsel, by pointing out to the above said Judgment and Decree, submitted that the competent Civil Court has already declared the title to the property in favour of the petitioner and therefore the very claim made in the F.I.R by the second respondent is no more valid. The learned counsel submitted that the F.I.R. itself has to be quashed by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

5. The learned Additional Public Prosecutor submitted that sufficient allegations have been made against the petitioner in the F.I.R and on the date when the FIR was registered, there was no Civil Court Decree in favour of the petitioner.

6. This Court has carefully considered the submissions made on either side and also perused the materials placed on record. This Court is of the considered view that the Judgment and Decree passed in favour of the petitioner in O.S.No.14 of 2013 with regard to the property in Survey No.31/1B, 1D, has virtually made the FIR non-est. The very basis on which the complaint was given by the second respondent, no more survives. Therefore the continuance of the FIR against the petitioner will result in abuse process of law.

7.In the result, the F.I.R. in Crime No.31 of 2013 on the file of the first respondent police is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rri/lpp

To

1. The Inspector of Police,
Palladam Police Station,
Tiruppur District.
2. The Tahsildar,
Taluk Office, Palladam Taluk,
Tiruppur District.
3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Govi Ganesan, Advocate sr.no.86553

CRL.O.P.No.29162 of 2018
and
Crl.M.P.No.17070 of 2018

mp(co)
nr 07/01/2019

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