



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C. (MD)No.160 of 2014

and

CrI.M.P. (MD)No.1 of 2014

Aamala Doss

... Petitioner

Vs

1.Devaraj  
2.Arunkumar  
3.Abdul Kathar  
4.Kodilingam

... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C, praying, to call for the records connected with order dated 24.06.2013 in Cr.M.P.No.1031 of 2013 on the file of the learned Judicial Magistrate No.I, Kulithurai in Kanyakumari District and set aside the same as illegal and consequently, direct the learned Judicial Magistrate No.1, Kulithurai to taken on file relating to the private complaint filed by the petitioner in Cr.M.P.No.1031 of 2013 on the file of the learned Judicial Magistrate No.1, Kulithurai in accordance with law.

For Petitioner : Mr.R.Alagumani

For R1 & R2 : Mr.K.P.Narayana Kumar

For R4 : No appearance

### **O R D E R**

The revision petition is preferred against the dismissal of the private complaint by the trial Court after recording the sworn statement of the complainant and the deposition of three witnesses on behalf of the complainant.

2.The allegation made in the private complaint is that the petitioner is the owner of the property bearing survey Nos.454/8 and 454/18. The first and second respondents who are the office bearers of the local body had tried to encroach upon the land and lay public road along with the respondents 3 and 4. At that time, filthy language was used by the respondents 1 to 4. However, on the same day, the petitioner was arrested based on the false complaint given by the first respondent. The trial Court after considering the deposition of the witnesses, has found that there is no corroboration for the averments made in the complaint. Hence, dismissed the private complaint.



3.The learned counsel for the respondents 1 and 2 would submit that the order of the trial Court is justifiable since the petitioner herein had encroached upon the Government poramboke land. He prevented the public officers from laying road under Thai Scheme which resulted in lodging a police complaint against the petitioner herein. Aggrieved by that, he has come out with the false complaint which has been rejected by the trial Court and there is no merit in the revision petition.

4.On perusal of the records, this Court finds that the property which the petitioner claims to be his patta lands, is according to the respondents, a Government poramboke land, upon which the petitioner had encroached. This matter is the subject matter of the civil suit in O.S.No.486 of 2010 pending on the file of the District Munsif Court, Kuzhlithurai. Therefore, this Court is not inclined to entertain this revision petition except to record that the suit property is now in possession of the petitioner herein by virtue of the interim order granted by the District Munsif Court, Kuzhlithurai in the aforesaid suit.

5.As far as the allegation of using filthy language and threatening to lay down a road in his patta land, the factual matrix whether it is a patta land or a public property encroached by the petitioner has to be decided only by the Civil Court, unless or until that is settled, the vague allegation made against the respondents 1 and 2 that they tried to encroach upon the land of the petitioner, for which, the respondents 3 and 4 assisted, cannot be gone into it. Therefore, the trial Court has rightly dismissed the private complaint and this Court finds no error in the said order. Hence, the revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To  
The Judicial Magistrate No.I,  
Kulithurai,  
Kanyakumari District.

+1CC TO MR.K.P.NARAYANA KUMAR ADVOCATE IN SR.No.78982.  
+1CC TO MR.R.ALAGUMANI ADVOCATE IN SR.No.78976.

RMI  
DS RSK SAR-3:03.09.2018; 2P/4C

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