



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.3445 of 2013

and

M.P. (MD) No.1 of 2013

1.Danial Selvaraj
2.Crystal Aani Bai

... Petitioners/ Accused Nos. 1 & 2

Vs.

1.State represented by
The Sub Inspector of Police,
Then Thamaraikulam Police Station,
Kanyakumari District.

... 1st Respondent/Complainant

2.Vaikunda Perumal

... 2nd Respondent/Defacto
Complainant

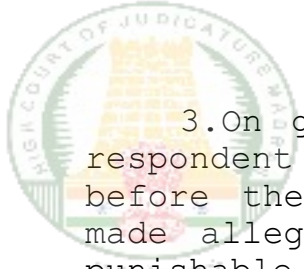
PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.143 of 2010 on the file of the Judicial Magistrate No.III, Nagercoil and to quash the same.

For Petitioners	:	Mr.K.P.Narayanakumar
For R-1	:	Mr.A.Robinson
		Government Advocate (Crl. Side)
For R-2	:	No appearance

O R D E R

This Criminal Original Petition has been filed to call for the records relating to the proceedings in C.C.No.143 of 2010 on the file of the Judicial Magistrate No.III, Nagercoil and to quash the same.

2.The petitioners herein are arrayed as first and second accused in C.C.No.143 of 2010 on the file of the Judicial Magistrate No.III, Nagercoil. Now, this application is filed to quash the abovesaid C.C.No.143 of 2010 as illegal.



3. On going through the facts of the case, on 30.06.2010, the respondent police filed a charge sheet in Crime No.107 of 2010 before the Judicial Magistrate No.III, Nagercoil, in which, they made allegations as the petitioners herein committed the offence punishable under Sections 294(b), 448, 427, 506(ii) I.P.C., The facts of the case are that on 19.06.2010 at about 6.00 p.m., the petitioners herein have illegally entered into the coconut field, which belongs to the defacto complainant and by using Aruval and other deadly weapons, they had damaged the fence of the defacto complainant's garden, worth about Rs.5,000/-. Further, the petitioners abused the defacto complainant by using filthy language and caused criminal intimidation to the defacto complainant. Hence, a case has been registered against the petitioners for the above said offences.

4. The first and foremost contention raised by the petitioners is that as per the Judgment passed by this Court in S.A.(MD).No.406 of 2009, dated 10.02.2012, the title and possession over the suit property was confirmed in favour of the first petitioner, particularly, the fence now alleged to have been damaged by the petitioners. Further, he added that since the Judgment was pronounced after the filing of the charge sheet, it is necessary to hold investigation by the respondent police in this regard.

5. The learned Government Advocate (Criminal Side) appearing for the State is also conceded to file an application before the learned Magistrate for reopening the case and for filing copy of the Judgment now relied upon by the petitioner.

6. Accordingly, this Court came to the conclusion that it is appropriate to issue a direction to the learned Judicial Magistrate No.III, Nagercoil to permit the prosecution for further investigation after filing necessary applications in this regard. The respondent police is directed to close the enquiry within a period of two weeks after getting permission from the concerned Magistrate and after completing all the formalities, the learned Judicial Magistrate No.III, Nagercoil is directed to dispose of the case as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

7. Further, the petitioners are directed to hand over the certified copy of the Judgment and other documents related to this case on or before 23.02.2018 to the respondent police.

8. With the above observations, this Criminal Original Petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)



To

1. The Judicial Magistrate No.III,
Nagercoil.
2. The Sub Inspector of Police,
Then Thamaraiikulam Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 48100

MSA

TE/SKN-RSK/SAR-1 : 23/02/2018 : 3P/5C

Cr1.O.P.(MD)No.3445 of 2013 and
M.P.(MD)No.1 of 2013
12.02.2018