



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.02.2018

Delivered on : 14.02.2018

WEB COPY

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.4908 of 2013 and
M.P.(MD)Nos.1 and 4 of 2013

1. Veemarasu
2. Rajendran
3. Selvaraj

... Petitioners/B Party Respondents

Vs.

1. Sivalingam
2. Jeyakumar

3. The Revenue Divisional Officer-cum-
Sub-Divisional Magistrate,
Thanjavur.

4. The Inspector of Police,
Orathanadu Police,
Thanjavur District.

... Respondents/A Party Respondents

[R4 impleaded as per order of this Court,
dated 02.02.2018, made in M.P.(MD)No.3/
2013 in Crl.O.P.(MD)No.4908/2013]

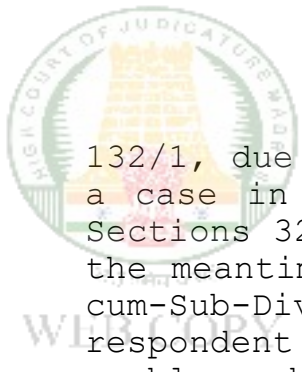
PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceeding in Na.Ka.No.154/2012/A3, dated 25.02.2013 on the file of the third respondent and quash the same as illegal.

For Petitioners	: Mr.P.Sesu Balan Raja
For R1 and R2	: Mr.T.Vadivelan
For R3 and R4	: Mr.A.Robinson
	Government Advocate (Criminal side)

ORDER

The petitioners herein are 'B' Party in a proceedings initiated by the third respondent/Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Thanjavur, under the provisions of Section 145 Cr.P.C. The first and second respondents in the petition are 'A' Party in the abovesaid proceedings.

2. Already, the party to the proceedings viz., 'A' Party and 'B' Party are having the dispute over S.Nos.137/1, 124/2B, 124/4 and



132/1, due to which, the Inspector of Police, Orathanadu, registered a case in Crime No.235 of 2009 for the offences punishable under Sections 323, 324, 506(ii) and 307 IPC and the same was pending. In the meantime, he represented before the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Thanjavur, who is the third respondent herein that there may be chances for law and order problem, due to the dispute mentioned above and thereby, the third respondent herein initiated proceedings in Na.Ka.No.154/2012/A3 [M.C.No.1/2012], dated 25.02.2013, and passed an order, in which, he directed the 'B' Party not to interfere with the possession of 'A' Party in respect of the lands mentioned above.

3. Aggrieved over the said order, 'B' Party herein filed this petition to quash the order passed by the third respondent.

4. The first and foremost contention raised by the petitioners is initially before passing an order, the mother of the first petitioner herein filed a suit in O.S.No.3 of 2012 before the District Munsif-cum-Judicial Magistrate Court, Orathanadu, for the relief of permanent injunction against one Chidambaram, the first respondent herein and one Ramalingam, in which, she has also filed an application in I.A.No.8 of 2012, for the relief of ad-interim injunction and on 12.07.2012, the learned District Munsif-cum-Judicial Magistrate, Orathanadu, passed an order as prayed for by the petitioner. Accordingly, on 12.07.2012, the mother of the first petitioner viz., Saraswathi, got an order of interim injunction over the properties, which is now under dispute. Then only, the third respondent herein, on 25.02.2013, passed an order under the provisions of Section 145 Cr.P.C., in which, the petitioners were restrained to enter into the properties, which are subject matter of the suit. Further, he added that since the civil suit is pending with regard to the said properties in dispute, the order passed by the third respondent, is nothing but illegal. Further, he relied on the judgment of our Hon'ble Supreme Court in **Ram Sumer Puri Mahant Vs. State of U.P. and others** reported in **1985 (1) SCC 427**, wherein, the Apex Court has held as follows:

'When a civil litigation is pending for the same property wherein the question of possession is involved and the parties are in a position to approach the civil court for interim orders such as injunction or appointment of receiver for adequate protection of the property during pendency of the dispute, there is no justification for initiating a parallel criminal proceeding under Section 145 Cr.P.C. Multiplicity of litigation is not in the interest of the parties nor should public time be allowed to be wasted over meaningless litigation. Therefore, the parallel proceeding should not continue and the order of the Magistrate directing initiation of such a proceeding under



Section 145 Cr.P.C. must be quashed.''

5. Now, applying the principles laid down by our Hon'ble Apex Court in the abovesaid decision to the present case on hand, it is necessary to note that the petitioners and the respondents are not party to the proceedings in a civil suit, which was pending with the learned District Munsif-cum-Judicial Magistrate, Orathanadu. But, on a careful reading of the order passed by the third respondent, it is seen that he honestly mentioned that the petitioners herein submitted a copy of the order, which was pronounced by the learned District Munsif-cum-Judicial Magistrate, Orathanadu. Further, in the same order, he mentioned that the first petitioner herein is the son of one Saraswathi Ammal, who is the complainant in a case now pending before the learned District Munsif-cum-Judicial Magistrate, Orathanadu.

6. Earlier, before passing the impugned order, the learned District Munsif-cum-Judicial Magistrate, Orathanadu, has granted an order of interim injunction in favour of 'A' Party. In the eye of law, we cannot separate the first petitioner from his mother. Therefore, considering the verdict of our Hon'ble Apex Court, this Court comes to the conclusion that the order passed by the third respondent is nothing, but illegal and therefore, the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the proceedings in Na.Ka.No.154/2012/A3 [M.C.No.1/2012], dated 25.02.2013, passed by the third respondent/Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Thanjavur, shall stand quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Thanjavur.
2. The Inspector of Police,
Orathanadu Police,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.P.SESUBALAN RAJA, ADVOCATE IN SR No. 49201

SMN2

TE/JC/SAR-4 : 07/03/2018 : 3P/5C

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M.P.(MD)Nos.1 and 4 of 2013
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