



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.(MD) No.6246 of 2013

and

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

1.K.V.Nagarajan
2.S.Gopal
3.R.Santhanam
4.G.Muthukumar
5.K.V.Natarajan
6.K.R.Gopalan

... Petitioners/Accused 1 to 6

-vs-

J.Ramesh

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings in C.C.No.217 of 2012 on the file of the Judicial Magistrate cum District Munsif Court, Kumbakonam in so far as the petitioners are concerned and quash the same.

For Petitioners : Mr.T.Antony Arul Raj
For Respondent : Mr.V.Karthikeyan
for Mr.V.Perumal

O R D E R

The petitioners herein are A1 to A6 in C.C.No.217 of 2012 pending on the file of the Judicial Magistrate Cum District Munsif Court, Kumbakonam.

2.In the trial Court, the respondent herein filed a private complaint against the petitioners for the offences punishable under Sections 448 and 506(i) of IPC. The whole reading of the averments made in the complaint discloses that during the time of occurrence the seventh accused threatened the respondent, who is not a petitioner in this case. Further more, the respondent in the complaint itself admitted with regard to the ownership of the said property, the alleged occurrence happened. Further, he added that a civil suit in O.S.No.291 of 2012 is pending on the file of the Principal District Munsif Court, Kumbakonam in this regard. Accordingly, the allegations levelled by the respondent are all in the form of factual aspects. In the judgment reported in **Ajay Kumar Das Vs. State of Jharkhand and another** reported in **2011 (12) SCC 319**, the Hon'ble Apex Court has held as follows:



'15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the Court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.'

3. Accordingly, we come to the conclusion that if a case is found on the basis of factual aspects, the issue can settle only by way of Trial. Now, in this petition, the learned counsel appearing for the petitioner did not indicate but the case is purely an abuse of process of law. Accordingly, considering the Principles laid in the above judgment, no material is put forth by this petitioner for quashing this complaint filed by the respondent. However, since the case is filed before the Learned Judicial Magistrate in the year 2013, this Court directs the Learned Judicial Magistrate cum District Munsif, Kumbakonam, to dispose of the matter within a period of three months from the date of receipt of a copy of this order and the personal appearance of the petitioners is dispensed with unless the learned Magistrate feels that their presence is required for disposal of the case.

4. With the above direction, this Criminal Original Petition is disposed of. Consequently, M.P. (MD). No. 1 of 2013 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate cum District Munsif,
Kumbakonam.

+ 1 CC TO Mr. T. ANTONY ARUL RAJ, ADVOCATE IN SR No. 44865
+ 1 CC TO Mr. V. PERUMAL, ADVOCATE IN SR No. 44385

VSG/RMI

TE/SV-MMS/SAR-2 : 21/02/2018 : 2P/4C