



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.02.2018

Delivered on : 23.02.2018

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P. (MD) No.9910 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

1.Anandakumar
2.Sadasiva Rao
3.Raja

... Petitioners/Accused No.1 to 3

Vs.

Sakthivel

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.172 of 2013 on the file of the Judicial Magistrate Court, Pattukottai and quash the proceedings as against the petitioners herein.

For Petitioners : Mr.Niranjana S.Kumar

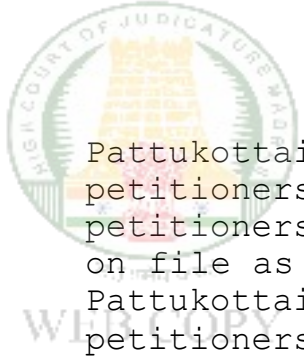
For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings relating to C.C.No.172 of 2013 on the file of the Judicial Magistrate Court, Pattukottai.

2.The petitioners herein are Accused Nos.1 to 3 in C.C.No.172 of 2013 on the file of the Judicial Magistrate Court, Pattukottai. The respondent herein filed a private complainant under Sections 190 (1)(a) and 200 Cr.P.C., against the petitioners for taking cognizance and to punish them for the offences under Sections 294 (b), 447, 506(i), 506(ii) and 379 IPC. The said private complaint was taken on file by the learned Judicial Magistrate, Pattukottai and summons were issued to the petitioners.

3.As per the case of the petitioners, the petitioners and the owner of the respondent one Samikannu are residing in the adjacent field. The petitioners are the hereditary Trustee of Mathu Sree Akkabai Ammani Charitable Trust, Pattukottai. The said Trust was
<https://hservices.reports.gov.in/hservices/> immovable properties, more particularly, agricultural lands in and around Pattukottai. In the year 1981, with regard to S.No.86L/2, situated at Periya Kadai Street,



Pattukottai, a dispute arose between the said Samikannu and the petitioners and thereby, a suit has been instituted by the petitioners in District Munsif Court, Pattukottai, which was taken on file as O.S.No.97 of 1997. Finally, the learned District Munsif, Pattukottai, passed a judgment and decree in favour of the petitioners. Thereafter, the owner of the respondent viz., Samikannu preferred an appeal in A.S.No.11 of 2007 before the Subordinate Court, Pattukottai, which was ended against the petitioners. Subsequently, the petitioners' Trust preferred a Second Appeal in S.A.(MD)No.320 of 2008 before this Court and this Court set aside the judgment and decree of the first appellate Court and confirmed the judgment and decree of the Trial Court.

4. On the other hand, on going through the copy of the complaint, it is alleged that as the first petitioner filed a Original Suit in O.S.No.274 of 1995 before the District Munsif, Pattukottai, wherein, the learned District Munsif, Pattukottai, confirmed the possession of the respondent. Accordingly, the petitioners and the respondent in this petition placed different set of facts with regard to the dispute between them. Subsequently, the respondent/complainant made an allegation in the complaint as because of the judgment and decree, on 09.11.2012, at 2.30 p.m., the petitioners have unlawfully entered into the property, which was under the possession of the respondent/complainant and cut the trees worth about Rs.20,000/-. Furthermore, on 20.11.2012 at 11.30 a.m., all the petitioners herein are using the Revolver and shot and made criminal intimidation. So, only for the allegation as above, the respondent herein filed the abovesaid private complaint against the petitioners. On cursory looking of the entire facts, it seems that as per the allegation made in the complaint, the alleged case between the petitioners and the respondent was completed in the year 2003. Subsequently, the alleged offence was happened only in 2012, which creates a lot of doubts whether it is possible that the petitioners are trying to act against the judgment and decree after lapse of 9 years. Particularly, along with the complaint, the respondent herein not enclosed any document to show with regard to the complaint lodged before the police officers. So, the action on the part of the respondent clearly shows that the alleged complaint has been lodged before the learned Judicial Magistrate, Pattukottai, only in order to settle the civil dispute. In this occasion, it is necessary to see the judgment of this Court in Moosa Ahmed Vs. Inspector of Police, Central Crime Branch, Team No.IV, Egmore, Chennai and another reported in 2010 (3) MLJ (Cr1) 32, wherein it has been held as follows:

''When the matter in issue is between the parties is purely of civil in nature and resort to criminal proceedings by complainant is with mala fides, such proceedings are liable to be quashed.''



5. Further, in the instant case was filed only by the servant of Samikannu, which also proves the alleged complaint was filed by the respondent only with *mala fide* intention. So, accordingly, the prayer sought by the petitioners in this case is having substantial truth. However, on considering the facts and circumstances shows as per the complaint, the petitioners committed only cognizable offence and thereby, it is necessary to see the scope and ambit of Courts with regard to Section 482 Cr.P.C., for which, in a case of Inder Mohan Goswami and another Vs. State of Uttaranchal and others reported in 2007 (12) SCC 1 was relied on by the learned counsel appearing for the petitioners, wherein at Paragraphs Nos.23 and 24, the Hon'ble Supreme Court has held as follows:

'23. This Court in a number of cases has laid down the scope and ambit of courts' powers under Section 482 Cr.P.C. Every High Court has inherent power to act *ex debito justitiae* to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 Cr.P.C. can be exercised:

(i) to give effect to an order under the Code;

(ii) to prevent abuse of the process of court, and

(iii) to otherwise secure the ends of justice.

24. Inherent powers under Section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.'

6. So, this Court is having the duty to eradicate the abuse of process of law. On the way, in this case also, the circumstances in and around the alleged offences create a doubt whether the complaint lodged by the respondent is for real occurrence or for taking revenge or for giving criminal colour to the civil dispute, which *prima facie* appears to be an abuse of process of law. Accordingly, this Criminal Original Petition is allowed and the proceedings relating to C.C.No.172 of 2013 pending against the petitioners, on



the file of the Judicial Magistrate Court, Pattukottai, shall stand quashed. Consequently, connected miscellaneous petitions are closed.

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/True copy/

Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar

To

The Judicial Magistrate,
Pattukottai.

+1cc to Mr. NIRANJAN S. KUMAR, Advocate, SR. 50806

Crl.O.P. (MD) No. 9910 of 2013
23.02.2018

SMN2

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