

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.29880 of 2013 and
CrI.M.P.No.1 of 2014

Dr.N.Mangairkarasi

... Petitioner

Versus

A.Joseph

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the orders passed in Criminal Revision Petition No.34 of 2013 before the III Additional District Sessions Judge, Coimbatore and the order dated 04.04.2012 passed in Mu.M.M.C.103/2011/A1 4/4/12 by the Revenue Divisional Officer, Coimbatore.

For Petitioner : Mr.S.Chandrasekar

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed by the petitioner to set aside the order passed in CRP.No.34 of 2013 by the learned III Additional District Sessions Judge, Coimbatore and the order passed in K:/K/vk;/rp/103/2011/A1, dated 04.04.2012 by the Revenue Divisional Officer, Coimbatore.

2.The petitioner and the respondent are arrayed as 'A' Party and 'B' party respectively in the order passed by the Revenue Divisional Officer, Coimbatore in K:/K/vk;/rp/103/2011/A1, dated 04.04.2012.

3.The gist of the case is that the dispute is between two groups belonging to the Christian Charitable Trust in Coimbatore. In respect of the same, the Inspector of Police, Law and Order Thudiyallur Police Station, Coimbatore submitted a report before the Sub Divisional Magistrate cum RDO, Coimbatore to take action under Section 107 Cr.P.C. against the parties. The Sub Divisional Magistrate cum RDO, Coimbatore conducted enquiry on several dates 19.09.2011, 26.12.2011, 06.01.2012, 23.01.2012, 05.03.2012, 12.03.2012 and 19.03.2013. The enquiry

revealed that the petitioner's husband was a trustee of the Christian Committee Fellowship (CCF) and wanted to run a church in his property. The 1st respondent was engaged as a pastor to run the church by the CCF and to conduct all the prayer meetings. The respondent termed as 'B' party is alleged to have misused the property of the petitioner and put up some rooms behind the church and tried to construct a house, without any permission from the church committee. Therefore, the members in the said CCF trust gave a complaint to the Inspector of Police, Thudiyallur Police Station, Coimbatore to stop the construction work in the church premises. But, the respondent did not vacate the premises and dispute persisted between them.

4.The petitioner gave a complaint before the Inspector of Police, Law and Order Thudiyallur Police Station, Coimbatore, which was registered as a case in Crime No.1373 of 2011. On 27.08.2011, the respondent also gave a complaint and the same is registered in Crime No.808 of 2011. Though the complaints were pending, there was continuous dispute and acrimony between the parties, which led to initiation of proceedings under section 107 of Cr.P.C. In the meanwhile, the petitioner gave a complaint to the District Collector, Coimbatore on 12.12.2011 and it was forwarded to the Sub Divisional Magistrate cum RDO, Coimbatore. The Sub Divisional Magistrate cum RDO, Coimbatore conducted enquiry, issued notice under Section 145 of Cr.P.C to the respondent. On receipt of the same, both the parties appeared. The respondent's advocate submitted that due to the dispute, a Civil Suit is pending before the learned District Munsif, Coimbatore in O.S.No.194 of 2010 and W.P.No.20970 of 2011 is also pending before this Court. Taking into consideration these facts, the Sub Divisional Magistrate cum RDO, Coimbatore passed an order stating that due to the pendency of the W.P.No.20970 of 2011 before this Court, no order could be passed under Section 145 of Cr.P.C and directed the parties not to carryout any construction activities till the disposal of the said case.

5.The learned counsel for the petitioner submitted that the order passed by the Sub Divisional Magistrate cum RDO, Coimbatore is erroneous one. He further submitted that a Civil Suit in O.S.No.1924 of 2010 is pending before the learned District Munsif, Coimbatore. The W.P.No.20970 of 2011 filed by the respondent was withdrawn by him on 08.03.2012, but the Sub Divisional Magistrate cum RDO, Coimbatore passed an order dated 04.04.2012 without application of mind. Hence, the petitioner filed this present petition to set aside the order of the Sub Divisional Magistrate cum RDO, Coimbatore.

6.On going through the materials produced before this Court and on the submissions made by the learned counsel for the

petitioner, it is seen that a Civil Suit in O.S.No.1924 of 2010 is still pending from the year 2010 on the file of the District Munsif Court, Coimbatore. Hence, the order passed by the Sub Divisional Magistrate cum RDO, Coimbatore cannot be said erroneous one. Further, presently there is no breach of peace with regard to the dispute between them and it was only initial notice issued under Section 145(1) Cr.P.C.

7.In view of the same, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

- 1.The III Additional District Sessions Judge,
Coimbatore.
- 2.The Sub Divisional Magistrate cum RDO,
Coimbatore.

Cr1.O.P.No.29880 of 2013

KJ (CO)
GMY (22/05/2019)

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