

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.25630 of 2016
and
Crl.M.P.No.9919 of 2017

1.Ramesh

2.Nithiyanandam

3.Sumathi ... Petitioners/A2,4 & 5
Vs...

Raghunathan ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.81 of 2014 on the file of District Munsif cum Judicial Magistrate, Sriperumbudur, Kanchipuram District and quash the proceedings against these petitioners.

For Petitioners : Ms.M.Vijayalakshmi
for Mr.S.Partheeban

For Respondent : Mr.C.Palani

ORDER

This petition has been filed to quash the proceedings in C.C.No.81 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Sriperumbudur, Kancheepuram District, having been taken cognizance for the offences under Sections 294 (b), 447 and 506(i) I.P.C.

2. The learned counsel for the petitioners submits that the respondent filed private complaint and the same has been taken cognizance for the offence under Sections 294(b), 447 and 506(i) I.P.C. in C.C.No.81 of 2014 in which the petitioners are arrayed as A2, A4 and A5. The respondent is none other than a neighbour of the petitioners. He lodged the private complaint alleging that on 08.12.2013 at about 01.30 hrs when he was there in his house the first accused tried to cut his guava tree without his permission, and further alleging that the pillar and the cement

roof put up by the respondent were also damaged by the first accused. When questioning the same, the first accused and the other accused persons scolded him with filthy languages and also threatened him with dire consequences by showing deadly weapons.

2.1. He further submitted that even according to the complainant there is no allegations to attract the offences as alleged by the respondent herein. Insofar as the petitioners are concerned they are not at all residing in the said house and the entire complaint has been falsely foisted by the respondent. He further submitted that the respondent is not a person having a good character. On the complaint lodged by the plumber of the second petitioner on the allegation that the respondent had beaten him, the respondent was arrested and remanded to judicial custody, and the respondent also incarcerated three days imprisonment. There are several cases and complaints pending against the respondent. Therefore, he prayed for quashment of the private complaint lodged by the respondent herein.

3. Per contra the learned counsel for the respondent filed counter and submitted that the Chennai Metropolitan Development Authority issued a demolition notice for the building possessed by the first petitioner. However, it was stalled with the influence of the Authority as such the respondent probed this fact to bring out the truth for which the respondent was physically assaulted by the petitioners and they also threatened him with dire consequences.

3.1. He further submitted that he sought for information under Right to Information Act from the Local Body Authority in respect of planning permission and construction of the property of the first petitioner herein. As such, the first petitioner along with other accused persons tried to attack the respondent with deadly weapons and they also threatened him with dire consequences. Therefore, the respondent lodged the complaint before the Inspector of Police, T-14 Mangadu Police Station. In the meanwhile the petitioners also damaged the telephone wire cable, asbestos sheet and pillar in his house.

4. He further submitted that the respondent also sent so many representations to the higher police official but to no avail. Finally he resorted to file the private complaint and the learned Magistrate rightly have taken cognizance for the said offences against the petitioners. Therefore, there is a prima facie case made out to attract the offences and he prayed for dismissal of this quash petition.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

6. The respondent lodged the complaint and the same has been taken cognizance for the offence under Sections 294(b), 447 and 506(i) I.P.C. by the learned District Munsif cum Judicial Magistrate, Sriperumbudur, Kancheepuram District against five persons in which the petitioners are arrayed as A2, A4 and A5. The crux of the complaint is that on 08.12.2013 at about 01.30 hrs. the petitioners and others were trying to cut the guava tree without permission of the respondent. They also damaged the pillar and the cement roof of the respondent's house. When the respondent questioned the same, the petitioners have threatened him with dire consequences by showing deadly weapons. Admittedly there is a dispute between the petitioners' family and the respondent's family with regard to violation of planning permission. In this regard, there are proceedings still pending.

7. It is seen from the complaint that there are no ingredients to attract the offences under Section 294(b) I.P.C. All the averments and allegations are bald and vague. There is no specific allegations as against the petitioners and there is no allegations to attract the offences under Section 447 I.P.C. Also, there is no averments as that the petitioners entered the house of the respondent. The allegation itself is that the petitioners were trying to cut the trees which were entered into their compound wall. The entire allegations are very simple and trivial in nature. Therefore, the present complaint cannot be sustained as against the petitioners, which is a clear abuse of process of law, and the impugned complaint is liable to be quashed.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.81 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Sriperumbudur, Kancheepuram District is quashed as against the petitioners alone. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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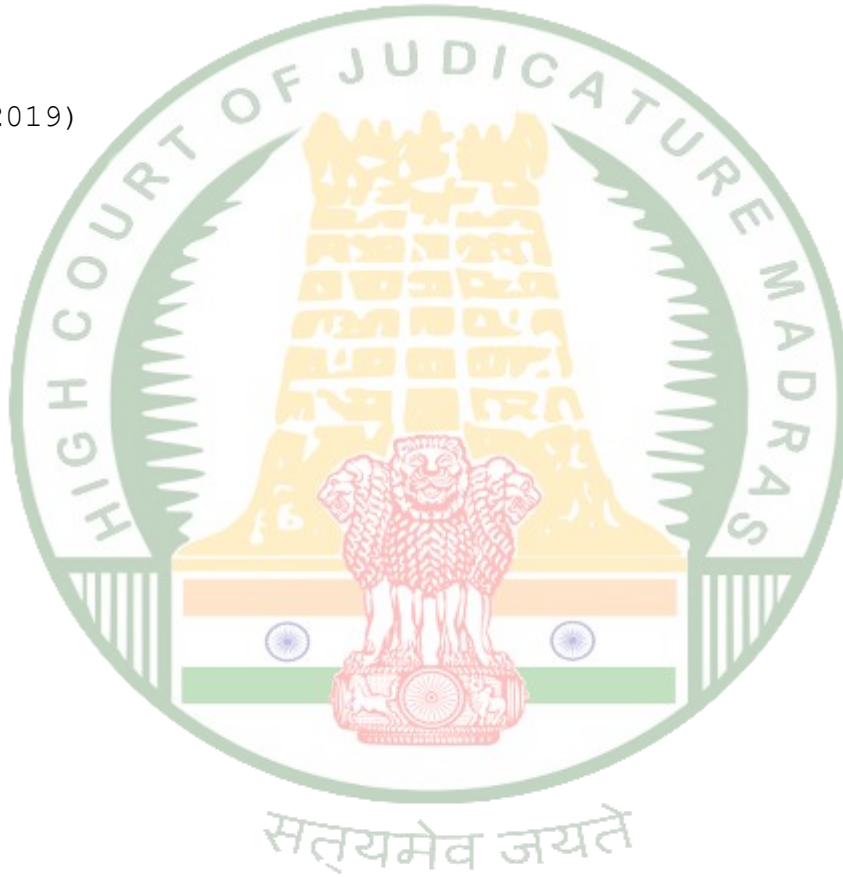
To

The District Munsif cum Judicial Magistrate,
Sriperumbudur, Kanchipuram District

+2 CCS to Mr.A.Mayakannan, Advocate sr 42478.

Crl.O.P.No.25630 of 2016

SV(CO)
SP(20/06/2019)



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