

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6500 of 2019
and
Crl.M.P.Nos.3593 & 3594 of 2019

1.K.Rajagopal
2.Selvaraju
3.A.Baby
4.Kathiravan

.... Petitioners

Vs.

Gobikirshnan

.... Respondent

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the criminal complaint in STC No.1001 of 2018 on the file of the learned Judicial Magistrate Court, Tirukovilur, quash the same by allowing this quash petition.

For Petitioner : Mr.N.Manokaran

ORDER

This Criminal Original petition has been filed by the petitioner under Section 482 of Cr.P.C, to call for the records relating to the criminal complaint in STC No.1001 of 2018 on the file of the learned Judicial Magistrate Court, Tirukovilur, quash the same by allowing this quash petition.

2.The learned counsel for the petitioner would submit that the respondent / defacto complainant is the owner of Survey No.31/3A and the petitioners 1 to 3 are the owners of Survey No.31/2. The Government Odai is in Survey No.31/1. While so, the respondent was in the habit of giving continuous pinpricks to the petitioners under the guise of frequent interference in the possession and enjoyment of Survey No.31/2. In order to resolve the dispute, the 2nd petitioner applied to conduct land survey on 18.07.2017, but the same was not allowed by the respondent. Hence a complaint was lodged on 23.10.2017 to Thirukovilur Police Station and the same was entertained in CSR No.571/2017. During the course of the enquiry, the father and

the mother of the respondent appeared before the police station and agreed that they would not cause any disturbance to the petitioners. Accordingly, the complaint was closed on 23.10.2017. Again the respondent prevented the Surveyor from carrying out the survey work by anticipating that an action will be taken against him for removal of the encroachment in Government Odai. Therefore, the 3rd petitioner gave a representation dated 06.11.2017 to the District Collector and other Revenue authorities with a request to take action against the respondent. Suppressing the above factual event, the respondent has filed a private complaint dated 14.11.2017 under Section 200 Cr.P.C. before the learned Judicial Magistrate, Thirukovilur for the alleged offence under Sections 294(b), 323, 506(i) r/w 34 IPC. The said complaint was taken on file and summons issued to the petitioners. Hence, this petition.

3. Heard the learned counsel for the petitioners.

4. It is seen that the petitioners have filed this petition to quash the private complaint in STC No.1001 of 2018 pending on the file of the learned Judicial Magistrate, Thirukovilur filed by the respondent for the alleged offence under Sections 294(b), 323, 506(i) r/w 34 IPC. The learned counsel for the petitioner would submit that there is a civil dispute between the petitioners and the respondent, thereby, the respondent has given a criminal colour to this civil dispute and filed a private complaint. There are specific allegations made in the private complaint to attract the offence. There are no grounds raised in this petition to quash the private complaint. Hence, this court is not inclined to entertain this petition. Therefore, the petitioners are granted liberty to raise all the grounds before the Trial Court. Accordingly, this criminal original petition stands dismissed. Consequently, the connected Crl.M.P.No.3593 of 2019 is closed.

5. However, considering the age of the 1st & 3rd petitioners and nature of the case, this Court is inclined to dispense with the appearance of the 1st & 3rd petitioners except the presence insisted by the Trial Court in STC No.1001 of 2018 before the Judicial Magistrate Court, Thirukovilur. Accordingly, the connected Crl.M.P.No.3594 of 2019 is ordered.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kas/vsn

To

The Judicial Magistrate Court
Tirukovilur.

+1 cc to Mr.N.Manoharan, Advocate, S.R.No.22860

CrI.O.P.No.6500 of 2019
and

CrI.M.P.Nos.3593 & 3594 of 2019

SSM(05/04/2019) .



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