

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10121 of 2019

and

Crl.M.P.Nos.5235 & 5236 of 2019

1.G.Narayanan

2.Saraswathi

.... Petitioners/Accused 1 & 2

Vs.

1.The State rep. by its
Inspector of Police
Anti-Land Grabbing Special Cell
Tiruvavur District Crime Branch
Tiruvavur (Town & Dist.) (Cr.3/12)

.... Respondent/Complainant

2.G.Saravanan

....Respondents/Defactor Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the 1st respondent police in Crime No.3 of 2012 (Amended Charge sheet) pending on the file of the learned Judicial Magistrate Court at Tiruthuraipoondi, Tiruvavur District and quash the same.

For Petitioners : Mr.C.Narayanan

For Respondents : Mr.C.Raghavan

Govt. Advocate (Crl. Side) for R1

ORDER

The Criminal Original Petition has been filed by the petitioner to call for the records of the 1st respondent police in Crime No.3 of 2012 (Amended Charge sheet) pending on the file of the learned Judicial Magistrate Court at Tiruthuraipoondi, Tiruvavur District and quash the same.

2.The learned counsel for the petitioners would submit that a case was registered as against the petitioners in FIR

No.3/2012 for the alleged offences under Section 294(B), 452, 506(1) r/w. Section 34 of IPC, when the property was under dispute before the Civil Courts, the question of commission of offence and gravity of offence are not attracted and accordingly, the case is not maintainable in law. Hence, this petition.

3.Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. Side).

4.Further it is seen from the First Information Report that there is a specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

5.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6.In view of the above discussions and as held by the Hon'ble Supreme Court of India, this Criminal Original Petition

stands dismissed.

7.However, considering the fact that the Crime No.3/2012 (Amended charge sheet) is pending from the year 2012 on the file of the Judicial Magistrate Court, Tiruthuraipoondi, the learned Magistrate is hereby directed to complete the investigation in Crime No.3 of 2012 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police
Anti-Land Grabbing Special Cell
Tiruvarur District Crime Branch
Tiruvarur (Town & Dist.) (Cr.3/12)
- 2.The Public Prosecutor,
High Court, Madras.
3. The Judicial Magistrate,
Tiruthuraipoondi.
4. do Thro The Chief Judicial Magistrate,
Tiruvarur.

Cr1.O.P.No.10121 of 2019
and

Cr1.M.P.Nos.5235
& 5236 of 2019

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