

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.10240 of 2017
and
Crl.M.P.No.6765 of 2017

P.R.N.Thirumurugan ...Petitioner/A-Party

Vs.

1. The Sub Divisional Magistrate-cum-Sub Collector (Revenue), Karaikal.
2. The State Rep. by
The Inspector of Police,
Kottuchery Police Station,
Kottuchery, Karaikal. ...Respondent/Complainant
3. M.Karthik ...Respondents/B-Party

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relates to the impugned order passed in M.C.No.6 of 2017 under Section 145 of Cr.P.C. on the file of the 1st respondent and quash the same.

For Petitioner : Mr.D.Bharatha Chakaravarthy
for M/s.Sai Bharath and Ilan

For R1 and R2 : Mr.V.Balamurugane

For R3 : M/s.V.Elangovan

O R D E R

Aggrieved by the summons issued under Section 145 Cr.P.C. by the Sub Divisional Magistrate, Karaikal/1st respondent directing the petitioner herein to appear and put forth his claim in respect of the land in dispute, the present Criminal Original Petition has been filed

2. The brief fact involving in this case is that in respect of the portion of land situated in Resurvey No.62/7, Cadaster No.102/2, at No.11, Poovam Village, Kottuchery Commune, Karaikal, there is a claim between two parties, who are in possession and enjoyment of the same. A complaint was registered in Crime No.43 of 2017 by the Pondicherry Police, pursuant to the complaint given by Thiru Murugan, S/o.Nalamaharajan, against one Karthick, S/o.Moorthy. Based on the report given by the Station House Officer, Kottucherry, Karaikal, the Sub Divisional Magistrate, Karaikal, has thought that there is an apprehension of breach of peace and tranquility of the area due to the dispute between these two parties. Hence, he has called both parties to appear before him and put forth the factual position regarding the land in dispute. They were summoned to appear before him on 19.05.2017. Instead of appearing before the Sub Divisional Magistrate and placing the records in his favour, the petitioner, who is shown as 'A' party in the impugned notice, has approached this Court by way of filing this Criminal Original Petition to quash the proceedings.

3. It is contended by the learned counsel appearing for the petitioner that already the suits have been filed regarding the property and decree was also passed in O.S.No.68 of 2007 for partition. The permanent injunction suit filed by the 'B' party in O.S.No.37 of 2012 was dismissed and therefore, there is no necessity to initiate the proceedings under Section 145 Cr.P.C.

4. This Court is unable to comprehend the fact that, if the Civil Court has already decided the title, what is preventing the petitioner to appear before the Sub Divisional Magistrate, Karaikal, and place all the records during 145 Cr.P.C. proceedings. It is only a summon issued by the first respondent calling for response. Though he has given a caption order under Section 145 Cr.P.C, no order is passed in the impugned notice dated 05.05.2017.

5. Since no order was passed determining the interest of the petitioner, there is no necessity to quash the impugned proceedings dated 05.05.2017. Due to efflux of time, if there is anything survives in the report given by the Station House Officer, Karaikal, to the Sub Divisional Magistrate, Karaikal, the first respondent can proceed with the matter under Section 145 Cr.P.C. If any summon issued by the first respondent, the parties are at liberty to appear before him, place records and canvass on merits.

6. With the above observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Divisional Magistrate-cum-Sub Collector (Revenue), Karaikal.
2. The Inspector of Police, Kottuchery Police Station, Kottuchery, Karaikal.
3. The Public Prosecutor for Puducherry, High Court of Madras.

+1cc to M/s.Sai & Bharath, Advocate, SR.No.22179
+1cc to the Public Prosecutor, Vide Sr.No.21681
+1cc to Mr.S.Doraisamy, Advocate, SR.No.21136

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Kak(30/05/2019)

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