IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.15000, 20999 of 2017 and 11419 of 2019
and
Crl.MP.Nos.9465 and 12444 of 2017

1. Kandha Murthy
2. Sanmugavadivelan
3. Gnana Vadivelan
4. Selva Ganapathy
5. Raja Vadivelan

.. Petitioners in
Crl.OP.Nos.15000 & 20999/2017)

GST Kanagam Educational Trust
rep by its Managing Trustee
Mrs.C.Kavitha .. Petitioner in
Crl.OP.No.11419/2019

.Vs.

1. The Sub Divisional Magistrate (Revenue)
   Karaikal.
2. Tmt. Savithiri
3. K.Selva Kumar
4. Venkatesh

... Respondents
(in Crl.OP.No.15000 of 2017)

1. The Sub Divisional Magistrate (Revenue)
   Karaikal.
2. Tmt. Savithiri
3. K.Selva Kumar ... Respondents
(in Crl.OP.No.20999 of 2017)

1. The Special Superintendent of Police,
   Karaikal District, Pondicherry.

2. The Inspector of Police,
   Kottuchery Police Station,
   Karaikal, Pondicherry ... Respondents
(in Crl.OP.No.11419 of 2019)

Prayer in Crl.OP.No.15000 of 2017: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records which relates to the impugned order passed in M.C.No.55 of 2017 under Section 145 of Cr.P.C dated 17.07.2017 on the file of the first respondent and quash the same.

Prayer in Crl.OP.No.20999 of 2017: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records which relates to the impugned order passed in M.C.No.66 of 2017 under Section 107 of Cr.P.C r/w Sec 111 of Cr.P.C dated 28.09.2017 on the file of the first respondent and quash the same.

Prayer in Crl.OP.No.11419 of 2019: This Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Special Superintendent of Police, Karaikal District, Pondicherry, the first respondent herein, to provide police protection to our school namely Adarsh Concept School situate at Naicken Kulathu Street, G.S.T.Nagar, Kottycherry- 609 609 as per the petition dated 08.04.2019 given by the petitioner to the first respondent.

Crl.OP.Nos.15000 and 20999 of 2017

For Petitioners : Mr.Kamala Kumar

For Respondents : Mr.V.Balamurugane
Additional Public Prosecutor
(Pondy)

Crl.OP.No.11419 of 2019

For Petitioner : Mr.S.Saravanan

For Respondents: Mr.V.Balamurugane
Additional Public Prosecutor (Pondy)

COMMON ORDER

In Crl.OP.No.15000 of 2017, interim order passed by the first respondent under Section 145 of Cr.P.C is under challenge.

Crl.OP.No.20999 of 2017 has been filed challenging the proceedings of the first respondent dated 08.08.2017, wherein, the first respondent Sub-Divisional Magistrate, (Revenue, Karaikal) has proceeded to initiate proceedings under Section 107 of Cr.P.C r/w 111 of Cr.P.C.

Crl.OP.No.11419 of 2019 has been filed seeking for police protection.

2. When Crl.OP.No.15000 of 2017 came up for admission before this Court on 28.07.2017, this Court stayed the entire proceedings in M.C.No.55 of 2017 on the file of the first respondent. Inspite of stay granted by this Court, the first respondent proceeded to initiate the proceedings under Section 107 of Cr.P.C r/w 111 Cr.P.C in M.C.No.66 of 2017. This proceedings is on the face of it in direct violation of the interim order passed by this Court in Crl.OP.No.15000 of 2017. The first respondent ought not to have initiated the proceedings under Section 107 Cr.P.C r/w 111 Cr.P.C and also directed the parties to maintain Status Quo until further orders. This is clearly a overreach on the part of the first respondent and the proceedings will have to be quashed on this sole ground.

3. It is also seen from the records that there is an interse dispute between the parties regarding the property, which can be resolved only by a competent Civil Court and the first respondent ought not to have ventured to initiate the proceedings under Section 145 of Cr.P.C and that too based on a petition filed by a private party directly before the first respondent. The first respondent did not even satisfy, by getting a police report, as to whether there is any breach of peace because of the property disputes. The first respondent has mechanically entertained the petition and also has passed an interim order dated 17.07.2017. This Order of the first respondent is also not sustainable and the same requires interference.

4. In view of the above findings, it is seen that there is civil dispute between the parties regarding the property and it can be resolved only before a competent Civil Court. The Police will have no role to play in it. Therefore, this Court cannot direct the Police to give Police protection as requested in Crl.OP.No.11419 of 2019.

5. In the result, the proceedings in M.C.No.55 of 2017 on the file of the first respondent is hereby quashed and accordingly, Crl.OP.No.15000 of 2017 is allowed. The proceedings in M.C.No.66 of 2017 on the file of the first respondent is quashed and accordingly Crl.OP.No.20999 of 2017 is allowed.

6. Since police protection cannot be granted, Crl.OP.No.11419 of 2019 is dismissed. It is left open to the parties to agitate their rights before the competent Civil Court and it is made clear that neither the first respondent nor the

police will interfere in the dispute. Consequently, connected miscellaneous petitions are closed.

vv/gv

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Divisional Magistrate (Revenue)
   Karaikal.

2. The Special Superintendent of Police,
   Karaikal District, Pondicherry.

3. The Inspector of Police,
   Kottuchery Police Station,
   Karaikal, Pondicherry.

4. The Public Prosecutor,
   High Court of Madras,
   Chennai.

+3CCS to the Public Prosecutor, vide, SR.No.51970, 51971 & 51972
+2CCs to Mr.R.Saravanan, Advocate, SR.No.52266 & 52267

Crl.O.P.Nos.15000, 20999 of 2017 and 11419 of 2019
and
Crl.MP.Nos.9465 and 12444 of 2017

Kak(08/08/2019)