

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP No.29991 of 2018

and

Crl.M.P.No.17616 of 2018

K.Kayilairajan

..Petitioner/Accused

.vs.

1. The State rep.by  
Inspector of Police,  
Vettaikaran Iruppu Police Station,  
Vedaranyam (T.K), Nagapattinam District.

2. M.Jayasankar ..Respondents/Complainant  
(Crime No.96 of 2018)

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the FIR in Crime No.96 of 2018, pending on the file of 1st respondent police, and quash the same.

For Petitioner : Mr.M.R.Kuyilan

For Respondent : Mr.Mohamed Riyaz, APP  
for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.96 of 2018, pending on the file of the 1st respondent Police.

2. The respondent Police have registered an FIR against the petitioner for an alleged offence under Sections 447, 430 of IPC and 3(2) of TNPPDL Act, 1984, based on the complaint given by the VAO, Kovilpathu Village, Nagapattinam District.

3. It is seen from records that there is a Vandi Pathai Poromboke Land in Survey No.66/1, and the same was encroached by one Nagoran. This fact is also borne out by revenue records, There were also many other encroachments made in the said survey number.

4. The petitioner filed a writ petition before this Court in W.P.No.32711 of 2017, seeking to remove the encroachment made in the said Proromboke Land. This Court by an order dated 18.12.2017, directed enquiry to be conducted by the RDO, Nagapattinam District and to take appropriate action in accordance with law. An enquiry was conducted by calling all the parties concerned and by his proceedings dated 11.04.2018, the RDO directed the removal of the entire encroachment in Survey No.66/1. The Tahsildar was directed to remove the encroachments. Instead of removing the encroachment, an attempt was made by the Tahsildar to issue Patta in favour of the encroachers. The petitioner left with no other option filed W.P.No.17508 of 2018, before this Court. This Court by an order dated 12.07.2018, directed the removal of the entire encroachment with Police protection. This order was not complied with by the official respondents, and therefore the petitioner again brought to the notice of this Court about the inaction on the part of the Tahsildar and attempt being made to issue Patta to the encroachers. This Court directed the Tahsildar to appear in person and file a report.

5. Pursuant to the orders passed by this Court, a report was filed before this Court stating that necessary action is being taken to remove the encroachment and the land classified as cart track will not be changed. This Court recorded the report filed by the Tahsildar and closed the Writ petition on 12.10.2018.

6. Immediately thereafter an FIR came to be registered against this petitioner based on the complaint given by the VAO, as if this petitioner has encroached Survey No.66/1, and when an attempt was made to remove the encroachment, the same was resisted.

7. On the face of it, this FIR is completely vitiated. During the entire proceedings before this Court in the writ petition, no one complained that this petitioner has encroached upon the cart track. For the first time the FIR came to be registered by making these allegations and it is clear that the Revenue Officials have developed enmity and hatred against the petitioner since they were made to comply with the orders of this Court, and they were made to appear before this Court.

8. The entire complaint is attended with malafides and it has been given only with an ulterior motive for wreaking vengeance against the petitioner and with a view to spite him due to private and personal grudge. The FIR itself clearly amounts to an abuse of process of law.

9. In the result, the FIR in Crime No.96 of 2018,

pending on the file of 1st respondent police is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KP

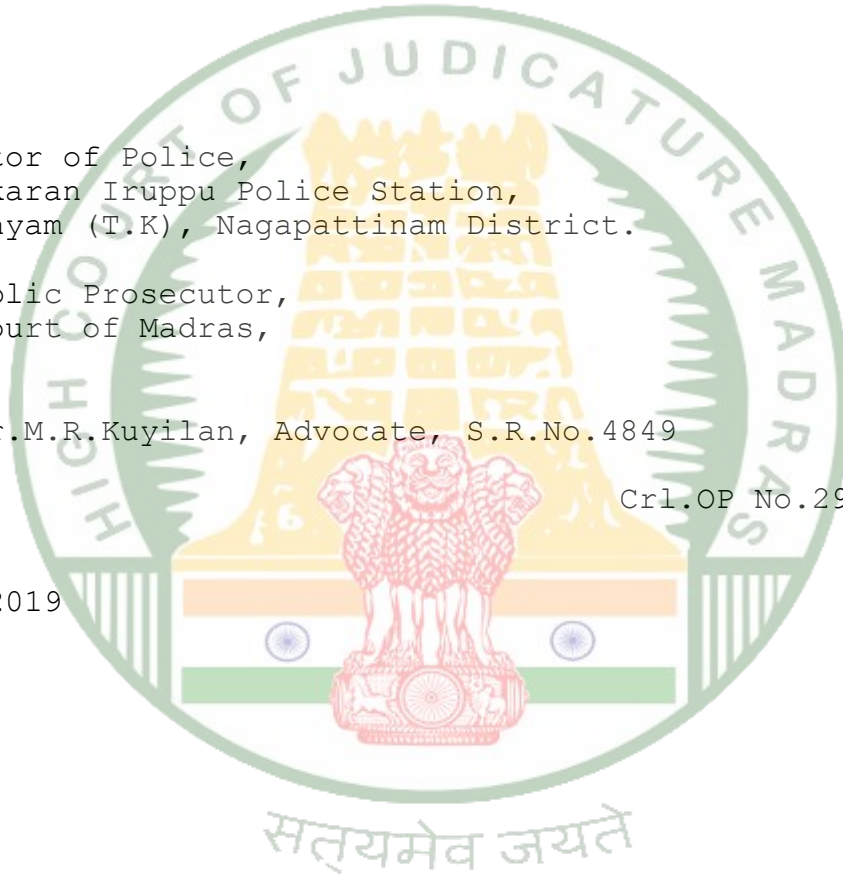
To

1. Inspector of Police,  
Vettaikaran Iruppu Police Station,  
Vedaranyam (T.K), Nagapattinam District.
2. The Public Prosecutor,  
High Court of Madras,  
Madras.

+1cc to Mr.M.R.Kuyilan, Advocate, S.R.No.4849

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EV(CO)  
CS/31/01/2019



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