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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

CRL.O.P.[MD].No.2336 of 2018

M.Madasamy

... Petitioner

Vs.

1.Thangaraj
2.Kannaiya
3.Senthurpandi
S/o.Pandarakannuthevar
4.Chelladurai
5.C.Veluchamy
6.Senthurpandi
S/o.Vellaichamythevar
7.Perumalsamy
8.Thalaimurugan
9.Manikandan

10.The Sub Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.

... Respondents

(R10 was impleaded as per the order of this Court, in CrI.M.P.(MD) No.1535 of 2018, dated 21.06.2018)

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.III, Devarkulam, dated 10.10.2017 in Cr.M.P.No.5329 of 2017 and consequently, to direct the Sub Inspector of Police, Devarkulam Police Station, Tirunelveli District to register a case under Sections 294(b), 447, 120B, 506(ii) and 307 of IPC on the petitioner's 23.12.2016.

For Petitioner : Mr.S.Sukumar
For R1 to R9 : No appearance
For R10 : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (CrI.Side)

ORDER

The grievance of the petitioner is that to set aside the order passed by the learned Judicial Magistrate No.III, Devarkulam, in Cr.M.P.No.5329 of 2017, dated 10.10.2017 and for a direction to the respondent police to register a case under Sections 294(b), 447, 120B, 506(ii) and 307 of IPC.



2. Heard the learned Counsel for the petitioner and the learned Government Advocate (CrI.side) appearing for the respondent police.

3. The learned Counsel for the petitioner would submit that vide aforesaid petition, he had preferred a complaint against the accused person with the prayer to take cognizance for offences punishable under Sections 294(b), 447, 120B, 506(ii) and 307 of IPC and Section 3 of TNPPDL Act. He would further submit that while the complaint chiefly alleges the facts that would go to constitute the offence under the aforesaid Sections, the learned Magistrate thought it fit to consider it as an complaint refers to some allegations in land grabbing cases and refer the matter to the concerned Magistrate.

4. This Court has directed private notice and the same was served. Since the nature of prayer is limited, this Court went through the entire complaint, as made available and it must be stated that they only disclose offences as stated above. Except for some reference to the 7th accused, who is the 7th respondent herein and also the Village Administrative Officer of the concerned village, who is alleged to be aiding other accused, there is nothing indicated that the complaint discloses any offence relating to land grabbing.

5. Hence, this Court finds some merits in the petition and the order passed in Cr.M.P.No.5329 of 2017, dated 10.10.2017 is set aside and the petitioner is now directed to re-present the complaint before the learned Judicial Magistrate No.III, who shall now act on it as per law.

6. In result, the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

7. Registry is directed to return the copy of the complaint to the petitioner.

Sd/-

Assistant Registrar (AD-I)

/ True Copy /

Sub Assistant Registrar (CS)

Cmr

To

1. The Judicial Magistrate No.III, Tiruvelveli.

2. The Sub Inspector of Police,
Devarkulam Police Station,
Tiruvelveli District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.SUKUMAR, Advocate (SR-59495[F] dated 08/04/2019)

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