



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2019

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**Crl.O.P. (MD) No.3808 of 2019
& Crl.M.P. (MD) Nos.2234 & 2235 of 2019**

- 1.Jeyaponraj, S/o.Malaisoodi
- 2.Duraisingam, S/o.Ponmuthu Nadar
- 3.Pooraja, S/o.Perumal
- 4.Muthupandi, S/o.Murugan
- 5.Kamaraj, S/o.Kulasekaran

... Petitioners

Vs.

1. The State Rep. by
The Inspector of Police,
Sayarpuram Police Station,
Tuticorin District.
(Crime No.33/2018)
2. Meenatchi,
Village Administrative Officer,
Iruvappapuram Village - I,
Sayarpuram,
Tuticorin District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of the charge sheet in connection with P.R.C.No.9 of 2018 on the file of the Judicial Magistrate Court No.I, Tuticorin, Tuticorin District.

For Petitioners : Mr.B.Jeyakumar

For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Criminal side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.9 of 2018 on the file of the Judicial Magistrate Court No.I, Tuticorin, Tuticorin District.

2.The case of the prosecution is that on 11.05.2018, the petitioners 2 to 5 had cut eight trees, namely, five neem trees, two Vadamadakkal trees and one Kodukaypuli tree, worth about Rs.10,000/- at the instigation of the first petitioner, who is the resident of



Jebathiyapuram Village and holding the post of Secretary of Peikulam Landlords Agricultural Development Association and thereby, committed the offence. Hence, a case has been registered against the petitioners and after completion of investigation, the Law Enforcing Agency filed a charge sheet against them, against which, they filed the present Criminal Original Petition.

3.The learned counsel appearing for the petitioners submitted that in the absence of *mens rea*, a person cannot be penalized for contravention of Section 3(1) of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. The *mens rea* can be established either by direct evidence or by drawing inference from the established facts and circumstances of the case. In this case, none of the witnesses has spoken about the guilty intention of the petitioners. The learned counsel further submitted that the object of TNPPDL Act makes it very clear that to prevent damage or loss caused to any property during political party agitations or ethnic agitations, demonstration or other activities, the liability has to be fixed on such groups. The object itself is to compensate the loss of the private and public properties for the damage caused by the said groups. In view of the said object, no offence is taken place in this case. Further, the petitioners have paid the compensation amount as assessed by the Tahsildar. Hence, the charge sheet is liable to be quashed.

4.The learned Government Advocate (Criminal side) appearing for the first respondent submitted that the petitioners uprooted 8 Green trees situated in a Government Poromboke land. Though the petitioner has paid the compensation amount as assessed by the Tahsildar, the same did not wipe out the crime committed by the petitioners. After completion of investigation, the charge sheet has been filed against the petitioners and therefore, he prayed for dismissal of the Criminal Original Petition.

5.Perusal of Section 3 of the TNPPDL Act makes it clear that whoever commits mischief by doing any act in respect of any property and thereby causes damage or loss to such property to the amount of one hundred rupees or upwards; or commits mischief by doing any act which renders any public road, bridge, navigable channel, natural or artificial impassable or less safe for travelling or conveying property, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine.

6.In the present case, admittedly, the petitioners removed 8 standing green trees from the Government Poromboke land and accordingly, the Law Enforcing Agency registered a case and conducted investigation and filed the charge sheet before the Trial Court and after committal proceedings, the case has been transferred



7.Considering the facts and circumstances of the case, this Court is not inclined to interfere with the charge sheet at this stage. Since the charge framed against the petitioners discloses commission of cognizable offence, the same cannot be quashed in the light of the law laid down by the Hon'ble Apex Court in **State of Haryana Vs. Bhajan Lal** reported in **1992 (1) SCC 335**.

8.At this juncture, the learned counsel appearing for the petitioners seeks to dispense with the personal appearance of the petitioners.

9.Considering the request made by the learned counsel appearing for the petitioners, this Court is of the opinion that the personal appearance of the petitioners is dispensed with. However, they shall present before the Court for answering charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if the petitioners file an affidavit under Section 317 Cr.P.C., the same shall be liberally considered. If the accused persons adopt dilatory tactics, the Trial Court shall insist upon the presence of the accused. If the accused persons abscond, a fresh FIR shall be registered against them under Section 229-A IPC.

10.With the above direction, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.I, Tuticorin.
2. The Inspector of Police,
Sayarpuram Police Station, Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.B.JEYAKUMAR, Advocate (SR-6802[I] dated 16/04/2019)

CrI.O.P. (MD)No.3808 of 2019
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