



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P. (MD)Nos.8595 & 8596 of 2019 and

CRL.M.P. (MD)Nos.5403 & 5404 of 2019

WEB COPY

CRL.O.P. (MD)No.8595 of 2019

1. Soundar
2. Selvaraj
3. Arjunan
4. Palraj
5. Ponraj

.. Petitioners/
Accused Nos.3,5 to 8

Vs.

1. State through,
The Deputy Superintendent of Police,
Tiruchuli,
Virudhunagar District.

2. The Deputy Superintendent of Police,
Aruppukottai,
Virudhunagar District.

3. The Sub-Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District,
Crime No.73 of 2019
(Now transferred to R-2)

... Respondents 1 to 3/
Complainants

4. Kannan

... 4th Respondent/
Defacto complainant

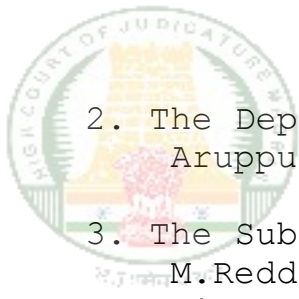
CRL.O.P. (MD)No.8596 of 2019

1. Chandrasekar alias Sekar
2. Ramesh
3. Selvarani

.. Petitioners/
Accused Nos.1, 2 & 4

Vs.

1. State through,
The Deputy Superintendent of Police,
Tiruchuli, Virudhunagar District.



2. The Deputy Superintendent of Police,
Aruppukottai, Virudhunagar District.

3. The Sub-Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District,
Crime No.73 of 2019
(Now transferred to R-2)

... Respondents 1 to 3/
Complainants

4. Kannan ... 4th Respondent/
Defacto complainant

Common Prayer : These Criminal Original petitions are filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in Crime No.73 of 2019 on the file of the third respondent(now pending before the second respondent police) and quash the same in respect of the petitioners.

(in both Crl.O.Ps.)

For Petitioners	: Mr.Veerakathiravan, Senior Counsel, for M/s.Veera Associates.
For R-1 to R-3	: Mr.Mr.A.Robinson, Government Advocate(Crl.Side)
For R-4	: Mr.A.Arumugam, for Mr.C.Christopher.

C O M M O N O R D E R

Both these Criminal Original petitions have been filed for quashing the First Information Report in Crime No.73 of 2019 on the file of M.Reddiapatti police station, Virudhunagar District.

2. Heard the learned counsel on either side.

3. The defacto complainant is one Kannan. The case of the defacto complainant is that the persons named as accused in the First Information Report prevented the members of the SC community from reaching their graveyard through the land in survey No.15/13, Narthampatti Village, Aruppukottai Taluk, Virudhunagar District. The defacto complainant had further alleged that on 22.04.2019 one Jabamalai belonging to their village had passed away and when they attempted to go through the land in question, the accused apart from preventing them also abused them by referring to their community.



4. The learned Senior counsel appearing for the petitioners pointed out that the land in question has been shown as patta land in the revenue records.

5. Per contra the learned counsel appearing for the defacto complainant would claim that atleast for the last 15 years, a customary road runs across the land in question. It is submitted by the learned counsel on either side that after the registration of the First Information Report, O.S.No.101 of 2019 on the file of the Principal District Munsif, Aruppukottai, has been instituted in this regard. Therefore, it is for the civil Court to pronounce on the character of the land in question; whether a customary road runs across the land or whether it is a private patta land. It is for the civil Court to decide and it is not for this Court to make any pronouncement at this time.

6. The learned Senior counsel appearing for the petitioners pointed out that there is a simmering dispute between the parties for quite some time. He drew my attention to the fact that as early as on 03.12.2018, legal notice was issued to the local administration pointing out that they are facing a threat of false implication under the provisions of the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act 1989. A copy of the said notice together with the postal receipts has been enclosed in the typed set of papers. The learned Senior counsel also drew my attention to the fact that Thiru.P.Chandrasekar @ Sekar who was named as accused No.1 filed W.P.(MD)No.10980 of 2018 before this Court and by order dated 16.05.2018, a direction was given to the Tahsildar, Aruppukottai, to consider the petitioner's request for conducting survey and measurement of the property in question, namely, Survey No.15/13 and 15/1 of Narthampatti Village.

7. It is relevant to note here that accused No.1 also sought adequate police protection at the time of carrying out the survey and measurement. Pursuant to the order passed by this Court, the Tahsildar, Aruppukottai, conducted survey and measurement. In view of the sensitive nature of the issue, police protection was also ordered.

8. The learned Senior counsel appearing for the petitioners would submit that on the occurrence date (ie.,) on 22.04.2019, a posse of policemen was present under the leadership of the Deputy Superintendent of Police himself. The survey took place from 08.00 a.m., and went on till 12.30 p.m. According to the impugned First Information Report, the occurrence took place at 12 noon. The learned Senior counsel appearing for the petitioners would further point out that the entire event has been duly video-graphed. A copy of the C.D. has also been produced before this Court for viewing and perusal. After arguing for a little while



that the impugned First Information Report should be quashed as an abuse of legal process, the learned Senior counsel appearing for the petitioners decided to limit his prayer to one for seeking transfer of investigation. The learned Senior counsel states that having issued a legal notice, they also filed the Writ petition for protecting their property rights. As per the revenue records, the property is shown as private patta land. The petitioners are ready to give their fullest co-operation to the police. They are willing to place all the materials. The learned Senior counsel would further contend that when the occurrence is said to have occurred as mentioned in the First Information Report, the Deputy Superintendent of Police himself was present in person in the site. Therefore, the petitioners are having serious misgivings over the manner in which the investigation is now being conducted. He would submit that the primary object of the local police appears to be to maintain the law and order. Therefore, the impugned First Information Report has been registered so that the petitioners would give up their valuable property rights.

9. I find considerable force in the apprehension expressed by the petitioners through their senior counsel. Therefore, in the interest of justice, I direct the transfer of investigation from the file of the first respondent to the file of the CBCID, Virudhunagar District. The Additional Director General of Police is directed to appoint a Deputy Superintendent of Police in terms of Rule 7(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995.

10. The Criminal Original petitions stand ordered on these terms. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

pmu

To

1. The Additional Director General of Police
Virudhunagar District

2. The Deputy Superintendent of Police,
Tiruchuli,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



3. The Deputy Superintendent of Police,
Aruppukottai,
Virudhunagar District.
- 4.The CBCID,
Virudhunagar District
5. The Sub-Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District.
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.VEERA ASSOCIATES, Advocate (SR-82135,82136[F] dated
19/08/2019)

CRL.O.P. (MD) Nos.8595 & 8596 of 2019

16.08.2019

_KM/ (19.12.2019) 5P 9C