



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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CRL.O.P.(MD)No.11535 of 2014 and

M.P.(MD)Nos.1 & 2 of 2014

1. Suresh Kumar
2. Ajin Suresh
3. Jeeva Jain
4. Sudha
5. Thangapushpam

... Petitioners/ Accused Nos.1 to 5

Vs.

1. State rep. by,
The Inspector of Police,
Nithravilai Police Station,
Kanyakumari District.
(Crime No.175 of 2009)

... 1st Respondent/ Complainant

2. Sudharsanan

... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records relating to the case in C.C.No.179 of 2013 on the file of the Judicial Magistrate No.II, Kuzhithurai and quash the same as against the petitioners.

For Petitioners	: M/s.B.Brijesh Kishore
For R-1	: Mr.A.Robinson, Government Advocate(Crl.Side).
For R-2	: G.Ramanathan

ORDER

The petitioners herein filed this Criminal Original petition for quashing C.C.No.179 of 2013 on the file of the Judicial Magistrate No.2, Kuzhithurai.

2. Heard the learned counsel on either side.

3. The second respondent Sudharsanan is the defacto complainant in the said case. His grievance is that the Jackfruit tree standing in Survey Nos.55/12A and 58/8 in Sundavilai, Aarudesom Village, was wrongfully cut and removed by the petitioners herein and others. Crime No.175 of 2009 was registered. Investigation was taken up and final report was filed. Cognizance of the offences under Sections 147, 447, 506(i) and 379 of I.P.C. was taken.



4. This Court wanted to know the interest of the defacto complainant in the said survey numbers. The learned counsel appearing for the second respondent fairly states that he is not claiming the ownership over the said survey numbers. He claims that he was in possession of the said lands. There is not even a scrap of paper indicating his possessory interest over the said lands.

5. The petitioners's counsel produced the revenue records which indicate that survey No.55/12A1A was standing in the name of the husband of the fifth petitioner herein. Survey No.58/8 was standing in the name of the third party and it has nothing to do with either parties. When there is not even a scrap of paper to sustain the stand of the second respondent herein, I fail to understand how a case can be registered. The second respondent would claim that the property belongs to the local diocese. But then, the Diocese has not lodged any complaint or information.

6. More than anything else, what was cut and removed was already recovered and handed over to the defacto complainant. The petitioners' counsel on instructions states that they would not make any claim on the wooden items handed over to the defacto complainant, as they want to give a quietus to the whole issue. Therefore, continuance of the impugned proceedings can be characterised as an abuse of legal process. To secure the ends of justice, the impugned proceedings stand quashed.

7. The Criminal Original petition stands allowed. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

pmu

To

1. The Judicial Magistrate No.II,
Kuzhithurai.
2. The Inspector of Police,
Nithravilai Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



+1. C.C. to M/S.B.BRIJESH KISHORE, Advocate SR.No. 88729

+1. C.C. to M/S.G.RAMANATHAN, Advocate SR.No. 89060

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JM/23.10.2019/3P/6C