



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) No.12888 of 2019

and

Crl.M.P (MD) Nos.7938 and 7944 of 2019

WEB COPY

1. P.Manikandan
2. P.Murugesan
3. S.Mani

... Petitioners/B Parties

Vs.

1. The Sub Divisional Magistrate cum
Sub Collector
Thoothukudi District. ... 1st Respondent/Presiding Officer
2. The Inspector of Police
Pudukottai Police Station
Thoothukudi District ... 2nd Respondent/Complainant
3. C.Sam Devdasan ... 3rd Respondent/A Party

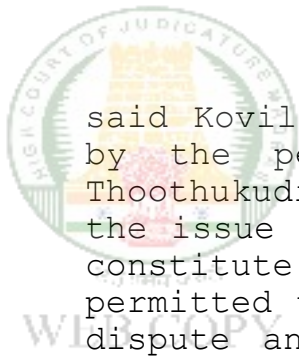
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to to call for the records and quash the impugned proceedings dated 10.09.2019 (served on 12.09.2019) in Aa1/CRPC145/01/2019 on the file of the first respondent, issued under Section 145 of Cr.P.C.

For Petitioners : Mr.I.Robert Chandrakumar
For Respondents : Mr.K.Suyambulinga Bharathi
No.1& 2 Government Advocate(Crl.Side)

ORDER

This petition has been filed to quash the impugned proceedings dated 10.09.2019 (served on 12.09.2019) in Aa1/CRPC145/01/2019 on the file of the first respondent, issued under Section 145 of Cr.P.C

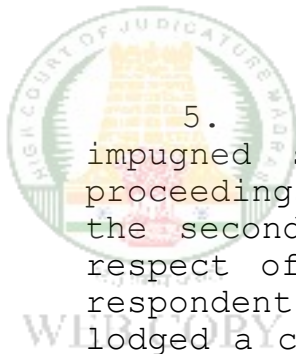
2. The learned counsel for the petitioner would submit that Sri Arulmighu Sudalaimadaswamy Thirukovil was situated in Poromboke land at Survey No. 26/3B1A in Periyannayagapuram, Korampallam, Thoothukudi District for Hindu Devendrakula Vellalar Community and the members of that community and the members of that community have been worshipping the temple for nearly 250 years without any hindrance. The third respondent claims that he has purchased the said land where the temple stands. The third respondent's vendor is one Kovilraj Stalin who does not belong to the said community and claims that the said land was originally purchased by him. When the



said Kovilraj stalin raised some objections to the use of the land by the petitioners for worshipping, the District Collector, Thoothukudi had convened a peace meeting on 02.03.2017. To resolve the issue the District Collector has recommended the Government to constitute a commission and till such time, the villagers should be permitted to use the temple. In respect of the same, there was some dispute and as such one Devaraj, the father of the said Kovilraj Stalin had filed a suit in O.S.no.61 of 1993 before the Sub Court, Thoothukudi for the very same issue and the same was dismissed for default on 11.02.1998. Now again the third respondent claiming right over the property lodged a complaint before the second respondent. Without considering the above facts, the second respondent mechanically forwarded the same before the first respondent now the first respondent initiated proceedings under Section 145 of Cr.P.C and issued summons to the petitioner, which is nothing but abuse of process of law. It would curtail the possession of the said property and the entire proceedings are vitiated. He also relied upon the decision of the this Court reported in **[2008(1) T.N.L.R.217(Mad) (MB) in the case of M.Ponnusamy -vs- The Revenue Divisional Officer, Musiri and others** and also in **1977 Crl.L.J.1190 in the case of Qadir Khan and other -Vs- New Kashmir, All City Transport Driver Sgr..** Therefore he sought for quashing the impugned summons issued by the first respondent.

3. The learned Government Advocate(Crl.Side) would submit that in respect of dispute over the temple situated at Poramboke land the third respondent lodged the complaint stating that the said land was purchased by the third respondent and registered the same as document No.3329 /2008. In the said land eight cents of land was also acquired for the purpose of laying national highways. While being so, for worshipping the temple there is hindrance from general public. Therefore he lodged a complaint and on the said complaint the second respondent conducted enquiry and both have agreed to approach the civil court for appropriate relief. Even then there is dispute between two groups in respect of the very same temple and as such there is law and order problem. Therefore the second respondent has rightly forwarded the said complaint for initiating proceedings under Section 145 of Cr.P.C on the file of the first respondent and issued summons to initiate proceedings under Section 145 of Cr.P.C to all the parties concerned and now it is under challenge. Further he relied upon the judgment of this Honourable Division Bench of this Court in Crl.O.P No.17684 of 2015 dated 24.01.2017 in the case of M.Krishnamurthy -vs- The Sub Divisional Magistrate cum Revenue Divisional Officer, Krishnagiri. Therefore he opposed to quash impugned summons issued by the first respondent.

4. Heard Mr.I.Robert Chakravarthi, learned counsel for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate(Crl.Side) appearing for the first and second respondents.



5. The petitioner has filed this petition to quash the impugned summons issued by the first respondent to initiate proceedings under Section 145 of Cr.P.C on the report received from the second respondent. It is seen that there is a dispute in respect of temple's property between petitioner's group and third respondent's group. While that being so, the third respondent lodged a complaint in respect of the temple's property and the same as enquired by the second respondent in which both the parties appeared and enquiry was conducted and the parties are directed to appear before the civil court for appropriate relief. For the very same dispute both the parties indulged in illegal activity and as such there is likelihood of arising law and order problem. Therefore the second respondent tried to refer the complaint before the first respondent for enquiry for initiating necessary proceedings as against the petitioner and the third respondent. On receipt of the same the first respondent without passing any orders initiated proceedings under Section 145 Cr.P.C. He simply issued summons to the parties concerned and now it is under challenge.

6. The judgments cited by the learned counsel for the petitioner are not applicable to the proceedings under Section 145 Cr.P.C. In the case on hand, the first respondent issued summons to initiate proceedings under Section 145 Cr.P.C. No order has been passed under Section 145 of Cr.P.C. Therefore these judgments are not applicable to the present case on hand. It is seen that the summons were issued by the first respondent directing the petitioner as well as the third respondent and upon their appearance to initiate proceedings under Section 145 Cr.P.C to file their documents and statements.

7. Considering the above facts and circumstances of the above case, the summons issued for initiating proceedings under Section 145 of Cr.P.C cannot be quashed which is simply summon to initiate proceedings under Section 145 Cr.P.C. However the petitioners are directed to appear before the first respondent and also submit all documents and reply statements as submitted by the petitioners before the first respondent and on receipt of the same, the first respondent is directed to consider their documents and also reply statement and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the Criminal Original Petition stands disposed of. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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To

1. The Sub Divisional Magistrate cum
Sub Collector
Thoothukudi District

2. The Inspector of Police
Pudukottai Police Station
Thoothukudi District

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

**+1 CC to Mr.I.ROBERT CHANDRA KUMAR, Advocate (SR-87093[F] dated
17/09/2019)**

CrI.O.P. (MD) No.12888 of 2019
16.09.2019

AAV

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