



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2019

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)Nos.18748 and 19481 of 2015

and

M.P. (MD)Nos.1, 1, 2 and 2 of 2015

Crl.O.P. (MD)No.18748 of 2015

1.S.Chandran
2.Prabhakaran

... Petitioners/Accused Nos. 1 & 2

-vs-

Yegappan

... Respondent/Defacto complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the private complaint in C.C.No.99 of 2014 on the file of the Judicial Magistrate Court No.II, Sivagangai and quash the same.

For Petitioners : Mr.M.Subash Babu

For Respondent : Mr.V.S.Kumaraguru

Crl.O.P. (MD)No.19481 of 2015

S.Chandran ... Petitioner/Accused

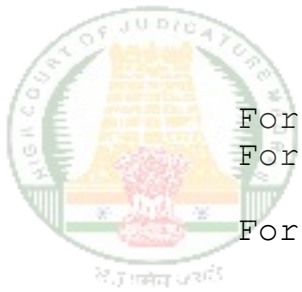
-vs-

1.The Inspector of Police,
Taluk Police Station,
Sivagangai,
in Crime No.171 of 2015,
Sivagangai District.

... Respondent/complainant

2.Jeyachitra ... Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the charge sheet in C.C.No.135 of 2015 on the file of the Judicial Magistrate No.II, Sivagangai and quash the same.



For Petitioner : Mr.M.Subash Babu
For R1 : Mr.A.Robinson,
Government Advocate
For R2 : Mr.V.S.Kumaraguru

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O R D E R

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.99 of 2014 and C.C.No.135 of 2015 on the file of the Judicial Magistrate No.II, Sivagangai. The complainant in C.C.No.99 of 2014 is Yegappan. The complainant in the other case is his wife Jeyachithra. Chandran is figuring as an accused in both the cases. In C.C.No.99 of 2014, one another person Prabhakaran is shown as A2.

2.Chandran is none other than the younger brother of Yegappan. Chandran is residing at the house bearing Door No.10/9, Ilango Street, Nattarasankottai, Sivagangai District. Yegappan and Jeyachithra are residing in Karumandabam, Trichy. The property bearing Door No.10/9, Ilango Street, Nattarasankottai, Sivagangai District stood in the name of one Kannathal, the mother of contesting parties herein. She passed away. It devolved on her husband Singaram. Singaram executed a settlement deed dated 29.05.2013 in favour of Chandran. It appears to be the bone of contention.

3.It is not in dispute that Yegappan had filed a partition suit in O.S.No.18 of 2013 before the Sub Court, Sivagangai, seeking the relief of partition. The said suit is still pending. In the meanwhile, these criminal cases came to be registered. According to Yegappan, the petitioners in Crl.O.P.(MD)No.18784 of 2015 trespassed into their property and attempted to broke open and took away some documents and sridhana articles belonging to himself and his wife Jeyachithra. The case lodged by Yegappan was registered in Crime No.320 of 2013 on 20.06.2013 for the offences under Section 447 and 380 of IPC by Sivagangai Taluk Police Station. The case was investigated and closed as mistake of fact. Final report to that effect was also filed. The respondent filed a protest petition and the same was taken on file as a private complaint. Yegappan's wife Jeyachithra filed a complaint before the very same police station on 14.06.2015 and the same was registered in Crime No.171/2015. The said case was investigated and it culminated in a positive final report. The learned Judicial Magistrate No.II, Sivagangai, took cognizance of the offences under Section 294(b), 342, 506(ii) IPC and Section 4 of Women Harassment Act.

4.The learned counsel appearing for the defacto complainant submitted that the contention raised by the petitioner's counsel are rather factual in nature and that the inherent powers of this Court under Section 482 of Cr.P.C., are not to be invoked in this case.



5.I Considered the rival contentions and went through the materials on record. It is not in dispute that the property in question was settled in favour of Chandran by a registered document dated 29.05.2015 by Thiru.Singaram who is none other than the father of Yegappan and Chandran. Immediately after the execution of the settlement deed, a partition suit came to be instituted by Yegappan. During the pendency of the civil proceedings, both Yegappan and his wife Jeyachithra lodged criminal cases. While Yegappan's First Information Report was closed as mistake of fact, Jeyachithra's First Information Report culminated into a positive charge sheet. Yegappan therefore, filed a private complaint in C.C.No.99 of 2014. The police case registered at the instance of Jeyachithra was taken on C.C.No.135 of 2015.

6.The common aspect in both these cases is that the defacto complainants have alleged that Chandran committed trespass into the house in question and was taking away articles belonging to the defacto complainant. But it is not in dispute that Singaram had already executed a settlement deed in favour of Chandran and Chandran is very much residing in the said house. Instead of working out the remedy in the pending partition suit, the defacto complainants herein have attempted to exert pressure on Chandran for settling the matter by lodging these criminal cases.

7.I am fully satisfied that the very initiation of both the cases are malafide and an abuse of legal process. In this view of the matter, both the proceedings in C.C.No.99 of 2014 and C.C.No.135 of 2015 on the file of the Judicial Magistrate Court No.II, Sivagangai are quashed and these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1.The Judicial Magistrate Court No.II, Sivagangai.

2. The Inspector of Police,
Taluk Police Station,
Sivagangai,

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



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

+1 CC to Mr.V.S.KUMARAGURU, Advocate (SR-103365[F]dated
04/12/2019)

+1 CC to Mr.M.SUBASH BABU, Advocate (SR-103551[F] dated
05/12/2019)

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