



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

Crl.O.P. (MD) No.10254 of 2018

Subbulakshmi

...Petitioner

Vs.

1. The Inspector of Police
Pettai Police Station
Pettai, Tirunelveli District

2. Rajendran
3. Esakkiammal
4. Sankaran
5. M. Sheik Meeran Mohideen

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 21.02.2018 passed in Crl.R.C.No.11 of 2016 on the file of the IV Additional Sessions Judge, Tirunelveli District confirming the order dated 12.08.2016 passed in Cr.M.P.No.7008 of 2013 on the file of the Judicial Magistrate No.VI, Tirunelveli District.

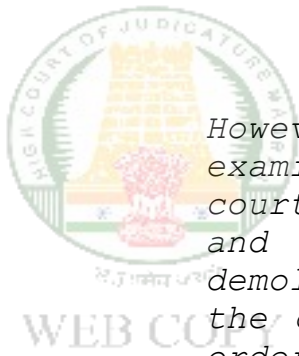
For Petitioner	:	Mr.A.Thiruvadikumar
For Respondent	:	Mr.K.Suyambulinga Bharathi
No.1		Government Advocate(Crl.Side)
For Respondent		
No.2 & 4	:	P.Ganapathi Subramanian
For Respondent		
No.5	:	M.Sankar.

ORDER

This petition has been filed seeking direction to direct the 2nd respondent to take appropriate action as per the direction given by the Judicial Magistrate Court, Arrupukottai in Cr.M.P No.3608/2019 dated 30/07/2019.

2. The revision Court has held as follows:

"9. It is disclosed in the statements of witnesses Selvam, Kannan, Mahalinga Prabhu- Senior Baliff, Kathiresan- Village Administrative Officer, Ganapathy- Village Assistant, Selvi- Head Constable and Mohamed Adam Hussian- Special Sub Inspector of Police recorded under Section 161(3) of Cr.P.C that encroachments were removed and the vacant possession was delivered only as per the order of the Court in E.A.98/2013. The Statement of the witnesses recorded under Section 161(3) indicates that encroachments were removed and demolition was done only as per the court order.



However, the complainant or the witnesses, while examined on oath, did not mention anything about the court order. If really, there was no such court order and if actually the encroachments were removed and demolition was done not on the basis of the court order the complainant should have produced the copies of the orders passed by the concerned court in the execution proceedings. But the complainant in the statement recorded on oath, has not stated anything about the execution proceedings. The complainant has not filed copy of any of the order of the execution court".

3. It is also seen that the present complaint has been filed only to evade the process of law and as such the court below has rightly rejected the complaint lodged by the petitioner. Infact on the complaint lodged by the petitioner, the first respondent registered a case and closed the same as 'Mistake of Fact'.

4. Therefore both the Courts below have rightly held that there is no prima facie case made out on the complaint lodged by the petitioner. Hence this Court finds no infirmity or illegality in the order passed by both the Courts below.

5. In the result, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The IV Additional Sessions Judge, Tirunelveli District

2. The Judicial Magistrate No.VI, Tirunelveli District.

3. The Inspector of Police
Pettai Police Station
Pettai, Tirunelveli District

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

+1CC TO MR.A.THIRUVADI KUMAR, Advocate Sr. No. 98291

Cr1.O.P. (MD) No.10254 of 2018
14.11.2019