



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WEB COPY

Crl.O.P. (MD) .No.12198 of 2018

and

Crl.M.P. (MD) Nos.5538 & 5539 of 2018

1) P.Lakshmanan

2) Annamalai

3) Thanner Malai

4) Annamalai Chettiar

5) Kannappan

6) Natchiappan

7) Ramalingam

...Petitioners/ Accused Nos.1,2,
3,6,10,11 & 12

vs.

Vellaichamy

...Respondent/ Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the private complaint in C.C.No.236 of 2018 on the file of Principal District Munsif Cum Judicial Magistrate Court, Karaikudi and quash the same as illegal so far as the petitioners are concerned.

For Petitioners : Mr.R.Gandhi

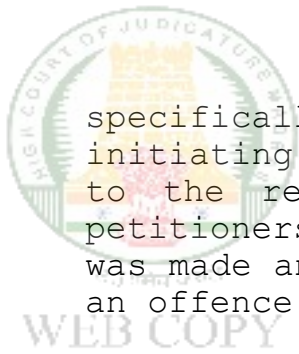
For Respondent : Mr.C.Godwin

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings pending in C.C.No.236 of 2018 on the file of Principal District Munsif Cum Judicial Magistrate Court, Karaikudi.

2. A reading of the private complaint filed by the respondent shows that certain Temple properties have been dealt with and has been alienated to various parties and the same became the subject matter of challenge before this Court in W.P.(MD) No.14428 of 2017.

This Court had also issued certain directions and had also



specifically directed the Authorities to remove the encroachments by initiating proceedings under Section 78 of H.R.& C.E.Act. According to the respondent, the allegations that have been made by the petitioners is false and they were aware about the alienation that was made and therefore, the petitioners will have to be punished for an offence under section 120(b), 406, 468 and 469 of IPC.

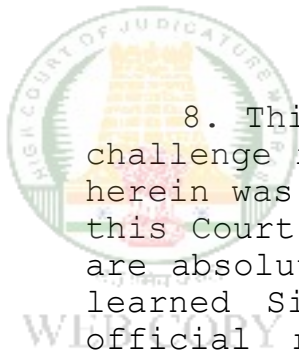
3. Mr.R.Gandhi, learned counsel appearing on behalf of the petitioners submitted that the criminal proceedings that has been filed by the respondent is clearly an abuse of process of Court. The learned counsel submitted that the petitioners had filed a writ petition before this Court against the alienation made by one Muthuchettiyar and for a direction to the Authorities to recover the Temple properties from the encroachers. The petitioners gave a list of nearly 117 properties belonging to the Temple, which are in the occupation of the third parties.

4. This Court had considered the entire case in detail and found that the encroachers have to be evicted and passed an order by giving various directions. The learned counsel submitted that this order was confirmed by the Division Bench of this Court in W.A.(MD) No.651 of 2018. The learned counsel submitted that the private complaint itself has been filed as a counter blast by the respondent, who is incidentally one of the appellant before the Division Bench. Therefore, the learned counsel submitted that the complaint itself is liable to be quashed.

5. The learned counsel appearing on behalf of the respondent submitted that the petitioners made false allegations and filed the writ petition before this Court. The learned counsel further submitted that the petitioners are well aware about the alienation of the properties and they have also committed misappropriation of the properties belonging to the Temple and necessary allegations have been made in the complaint and therefore, they have to face the trial before the Court below.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. The private complaint which is the subject matter of challenge in this Criminal Original Petition is a classical case of abuse of process of Court. The petitioners have been fighting for the cause of recovering the Temple properties from the hands of the encroachers. The petitioners have resorted to a legal process by filing a writ petition before this Court and this Court had considered the entire issue in detail. This Court found that the properties belonging to the Temple is under the illegal occupation of the encroachers and therefore, directed the H.R. & C.E. Department to initiate proceedings under section 78 of H.R. & C.E. Act and evict the encroachers.



8. This order passed by this Court became the subject matter of challenge in W.A.(MD) No.651 of 2018. It is seen that the respondent herein was the third appellant in that appeal. The Division Bench of this Court again went into the entire issue and it found that there are absolutely no grounds to interfere with the order passed by the learned Single Judge. In fact, the Division Bench directed the official respondents to complete the exercise of evicting the encroachers within a period of twelve(12) weeks.

9. A private complaint came to be filed by the respondent after the order was passed by the Division Bench. The allegations made in the complaint runs as if the petitioners have made false allegations and they were also aware about the alienation of the properties and they also committed misappropriation of the Temple properties. The Court below did not apply its mind before it took cognizance of the private complaint. The respondent has initiated the private complaint against the petitioners only to wreck vengeance and the entire complaint is attended with malafides. The continuation of the private complaint against the petitioners will clearly amount to abuse of process of Court and therefore, the same requires the interference of this Court in exercise of its jurisdiction under section 482 of Cr.P.C.

10. In the result, the proceedings in C.C.No.236 of 2018 on the file of Principal District Munsif Cum Judicial Magistrate Court, Karaikudi is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Principal District Munsif Cum Judicial Magistrate,
Karaikudi.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in

Crl.O.P. (MD) .No.12198 of 2018

Dated: 27.11.2019

JMN(06.01.2020) 3P : 3C

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