



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 09.07.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P. (MD) .No.1258 of 2017

and

Crl.M.P. (MD) Nos.1056 & 1057 of 2017

1. Munusamy
2. Thangavel
3. Karuthapandian
4. Mani
5. Vairavan
6. Sureshkumar
7. Gunasekaran
8. Ayyakannu
9. Shanmugam

... Petitioners

-Vs-

- 1.State represented through
The Inspector of Police,
Aravakurichi Police Station,
Karur District.

2. Boopathy

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the Charge Sheet in C.C.No.239 of 2014 on the file of the Judicial Magistrate Court No.II, Karur and quash the same.

For Petitioners	:	Mr.D.Nallathambi
For R1	:	Mr.K.Suyambulinga Bharathi
		Government Advocate (Crl.side)
For R2	:	Mr.N.Shanmuga Selvam

O R D E R

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This petition has been filed seeking to quash the criminal proceedings in C.C.No.239 of 2014 on the file of the Judicial

Magistrate Court No.II, Karur.

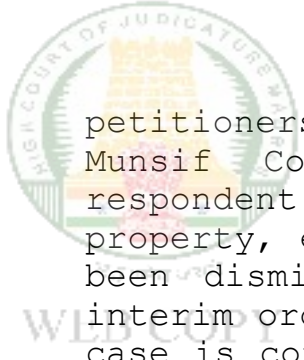
2. The petitioners are accused Nos.1 to 9 in C.C.No.239 of 2014, on the file of the Judicial Magistrate Court No.II, Karur and they have been charged with for the offences under Sections 147, 148, 447, 448, 323, 294(b) and 506(ii) of I.P.C. The above crime has been registered against the petitioners, based on the complaint given by the second respondent herein, alleging that the petitioners have trespassed into the second respondent's property and tried to put up a shed, abused the de-facto complainant with filthy language, and criminally intimidated him. After investigation, a final report has been filed and the learned Judicial Magistrate taken cognizance of the offence and pending in C.C.No.239 of 2014 for the offences under Sections 147, 148, 447, 448, 323, 294(b) and 506(ii) of I.P.C. Now, to quash the above criminal proceedings, the present criminal original petition has been filed.

3. The learned counsel appearing for the petitioners would submit that there is a civil dispute pending between the parties. Earlier, the first petitioner / A1 in this case has filed a suit against the second respondent and others in O.S.No.10 of 2010, before the District Munsif Court, Karur, on the ground that the disputed property has been leased out to A1, and he has been in possession and enjoyment of the same, and the second respondent/landlord was trying to evict the petitioner, hence, sought for permanent injunction not to interfere with his peaceful possession and enjoyment of the suit properties, until he is evicted under due process of law. Even though the suit was dismissed, now an Appeal is pending against the judgment and decree passed in the suit. Pending the appeal, the second respondent given a criminal colour to the civil dispute, and a false complaint has been filed against the petitioners. That apart, on the date of alleged occurrence, the Advocate Commissioner inspected the suit property and filed a report noting down the physical features of the property and it is highly improbable that the occurrence had taken place on that date.

4. Per contra, the learned counsel appearing for the second respondent would contend that the petitioners claiming to be the tenants under the second respondent earlier filed a suit for bare injunction and that suit was dismissed holding that the first petitioner is nor in possession and enjoyment of the suit property, even though an appeal has been filed there is no interim order, pending appeal, the petitioners illegally trespassed into the second respondent's property, abused him in filthy language, criminally intimidated him and also threatened him. Hence, the complaint has been given only on the criminal act

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5. A perusal of the records, it is seen that earlier the



petitioners filed a suit in O.S.No.10 of 2010 before the District Munsif Court, Karur for injunction restraining the second respondent herein from evicting the petitioners from the disputed property, except under due process of law, admittedly the suit has been dismissed. Even though the appeal is pending there is no interim order suspecting the judgment and decree. Now, the present case is concerned, pending appeal, the petitioners trespassed into the property of the second respondent, criminally intimidated him, abused him and also threatened him.

6. I have perused the entire materials available on record, and the materials collected during investigation *prima facie* constitute the offence against the petitioner.

7. Considering the above circumstances, there is no ground to quash the criminal proceedings in C.C.No.239 of 2014 pending on the file of the Judicial Magistrate Court No.II, Karur. Accordingly, the criminal original petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Judicial Magistrate No.II, Karur.
- 2.The Chief Judicial Magistrate, Karur District.
- 3.The Inspector of Police,
Aravakurichi Police Station,
Karur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D.NALLATHAMBI, Advocate (SR-74535[F] dated 10/07/2019)

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