

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.18931 of 2013
and
Crl.M.P.No.1 of 2013

1.E.Muniyappan
2.E.Shanmugam
3.E.Nagaraj
4.Chinnasamy
5.K.C.Nagarajan
6.K.Samraj
7.K.Murugan
8.P.Sekar
9.P.Sakthivel
10.K.Murugan
11.K.Rajamanickam
12.P.Madhaiyan
13.Arumugam

... Petitioners

Vs.

K.G.Raja

... Respondent

Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.99 of 2011 on the file of the learned Judicial Magistrate, Palacode quash the proceedings as against the petitioners herein.

For Petitioners : M/s.V.Rajamohan

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.99 of 2011 on the file of the Judicial Magistrate Court, Palacode.

2.The respondent has preferred a private complaint before the learned Judicial Magistrate, Palacode in C.C.No.99 of 2011 against the petitioners on the allegations that the petitioners were criminally trespassed by arming deadly weapons into the property of the respondent in survey No.605/2B at Kadagadahalli Panchayat to an extent of 2 acres 39 cents. The 1st petitioner

has filed a suit in O.S.No.166 of 2010 before the learned Subordinate Court, Dharmapuri in the above said disputed property. Thereafter, the accused persons were tried to evict the respondent and hence, he has filed a suit in O.S.No.278 of 2010 for permanent injunction and also filed a criminal complaint before the Inspector of Police, Palacode against the petitioners herein. Due to inaction on the complaint lodged by the respondent dated 22.02.2011, the respondent has filed a petition before this Court in Crl.O.P.No.6049 of 2011 for registration of F.I.R. This Court by order dated 14.03.2011 closed the said Criminal Original Petition by stating that F.I.R in Crime No.8 of 2011 has been registered by the Inspector of Police, Palacode. Again due to inaction of the above said crime number, the respondent has preferred the present private complaint, against which the present petition has been filed.

3.The respondent has not appeared in this case, despite notice served on the respondent. The names of the respondents have been printed in the cause list, despite the same, there has been no appearance on the side of the respondent. The case is pending from the year 2013, hence adjourning the case for appearance of the respondent would serve no purpose. Hence, this Court propose to proceed with the case on the basis of the materials available and on the submissions of the learned counsel appearing for the petitioner.

4.On perusal of the records, it reveals that two civil cases are pending before the concerned Court and further the respondent has filed a criminal complaint before the Inspector of Police, Palacode on the same set of allegations and the same is pending in Crime No.8 of 2011. Hence, this Court refused to entertain the petition on the ground that a criminal case on the very same issue is pending. For the very same issue of allegation in filing private complaint is unsustainable one.

5.Hence, this Criminal Original Petition is allowed. Accordingly, the proceedings as against the petitioners in C.C.No.99 of 2011 on the file of the Judicial Magistrate Court, Palacode is hereby quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

vv2

To

The Judicial Magistrate Court,
Palacode.

+1cc to Mr.Mohideen Basha, Advocate, SR.No.9656.

Crl.O.P.No.18931 of 2013

MG (CO)
CSR: 05.03.2020