



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.29016 of 2014
and M.P.No.1 of 2014

1.M.Jagannathan,
2.Neelavathi.

... Petitioners

-Vs-

1.The Sub-Divisional Magistrate,
Tirupur.

2.Ramakrishnan,
3.Kanagaraj,
4.Varadarajan,
5.Sakthivel,
6.Vasu,
7.Raamesh,
8.Murugesan,
9.Sekar,
10.Sakkaraiyan,
11.Venugopal,
12.Lakshmi,
13.Jayanthi,
14.Bhagavathi,
15.Radha,
16.Karuvachi,
17.Dobi @ Mani,
18.Jaya.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the proceedings in Na.Ka.No.2473/2014/A1 dated 07.10.2014 pending on the file of the first respondent herein, viz., Sub Divisional Magistrate, Tirupur and quash the same.

For Petitioner : Mr.G.M.Ramasubramanian
For M/s. Ram and Ram

For Respondents : Mr.R.Ravichandran for R1
Government Advocate(Crl.side)



O R D E R

The 1st respondent issued notice to the petitioners under Section 145 Cr.P.C. on 07.10.2014, based on the complaint given by the private respondents 2 to 18. On receipt of the notice, the petitioners have filed the present petition to quash the proceedings in Na.Ka.No.2473/2014/A1 dated 07.10.2014.

2.The learned counsel for the petitioners would submit that the notice under Section 145 Cr.P.C. was issued to the petitioners without application of mind and without considering whether there is likelihood of the existence of breach of peace. The learned counsel further submitted that subsequently, the 2nd respondent herein has filed a civil suit in O.S.No.191 of 2008 before the learned District Munsif, Palladam, as against the 1st petitioner herein and one Kannan, which was dismissed and ended in favour of the petitioners herein and the petitioners are in possession of the property. Therefore, there is no need to conduct any enquiry under Section 145 Cr.P.C. Therefore, the proceedings of the 1st respondent is liable to be quashed. In support of his submission, the learned counsel also relied upon the judgment of the Hon'ble Supreme Court in the case of Muthukrishnan and another Vs.Station House Officer, Town Police Station, Karaikal and another [1994 SCC Online Mad 357:1995 Cri LJ 2997].

3.The learned Government Advocate (Crl.side) would submit that it is only a show cause notice issued to the parties and no order was passed or decision was taken. The suit referred to by the petitioners will not be applicable to the present case. He further submitted that the parties should appear before the 1st respondent with the relevant documents. The show cause notice is issued in order to maintain peace, therefore, the petition is liable to be dismissed.

4.On a perusal of records, it is seen that the second respondent has given a complaint before the Police. The Police also registered a case in Crime No.466 of 2014 and referred the matter to the 1st respondent viz., the Sub-Divisional Magistrate, Tiruppur. The Magistrate has issued notice to the petitioners under Section 145(1) Cr.P.C. On a careful reading of the show cause notice dated 07.10.2014, which was issued to the petitioners, the learned Magistrate has only directed the parties to appear before him on 10.10.2014 along with relevant documents and has not passed any order. He has issued this notice to the parties to only ascertain whether any dispute prevailing between them or any illegality arose or is there any possibility of breach of peace. The petitioners without



appearing before the 1st respondent has approached this Court to quash such notice.

5. It is settled proposition of law that before passing any order under Section 145(1) Cr.P.C., the 1st respondent viz., The Sub-Divisional Magistrate, Tiruppur, has to satisfy whether there is any dispute likely to cause breach of peace. However, he has issued only the show cause notice calling upon the parties to appear before him with the necessary documents and he has not passed any order. Therefore, he has not mentioned anything in the notice pertaining to a dispute likely to cause breach of peace. Under such circumstances, this court does not find any illegality in the show cause notice issued by the 1st respondent to the petitioners. It is for the petitioners to appear before the 1st respondent along with relevant documents and prove themselves. The learned counsel also relied upon an order of this Court dated 19.08.2019 passed in W.P.No.18693 of 2019, in which the facts and circumstances of the case is completely different from that of the facts and circumstances of the present case on hand. Therefore, it will not be applicable to the present case.

6. Though, the learned counsel for the petitioners specifically mentioned about the suit filed by the second respondent herein, which was dismissed and ended in his favour and the petitioners are in possession of the property, it is for the petitioners to make all their submissions before the 1st respondent. The 1st respondent is directed to consider all the grounds raised by the petitioners and pass order in accordance with law.

7. Accordingly, this Criminal Original Petition is dismissed. The petitioners are at liberty to raise all his grounds before the 1st respondent. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rm



To:

1.The Sub-Divisional Magistrate,
Tirupur.

2.The Public Prosecutor,
High Court,
Madras.

+1 cc to M/s. Ram and Ram, Advocate, S.R.No.16526

Crl.O.P.No.29016 of 2014

GP(CO)
RN(19/05/2020)