

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.23747 of 2019

Cr1.MP.No.12508 of 2019

M.Dhanavendhan
S/o.Munirathinam

...Petitioner/Accused

Vs.

1. The State Represented by
The Inspector of Police,
Royakottai Police Station,
Krishnagiri.
(Crime No.324 of 2018)

...1st Respondent

2. Gayathri
The Sub Inspector of Police,
Royakottai Police Station,
Krishnagiri.

...2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the criminal proceedings in S.T.C.No.2 of 2019 on the file of the Judicial Magistrate Court at Denkanikottai and quash the same.

For Petitioner : Mr.D.Manimaran

For Respondents

For R1 & R2: Mr.M.Mohamed Riyaz

Additional Public Prosecutor.

O R D E R

This Petition has been filed to quash the proceedings in S.T.C.No.2 of 2019 on the file of the learned Judicial

Magistrate, Denkanikkottai, thereby taken cognizance for the offences under Section 160 of IPC, as against the petitioner.

2. There are totally four accused in which, the petitioner is arrayed as first accused. On the complaint given by the petitioner, a case has been registered in Crime No.324 of 2018 for the offence under Section 106 of IPC as against petitioner and others. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in S.T.C.No.2 of 2019 for the offence under Section 106 of IPC, alleging that between the accused persons, there was a previous enmity for the past 30 years in respect of their land. While being so, on 15.07.2018, at about 17.30 hours, the petitioner and three others have quarreled each other and disturbed the public so as to cause terror in the public.

3. Admittedly, there was already a civil litigation is pending before the Munsif Court in O.S.No.98 of 2016 filed by the petitioner's father against A3 and others. In fact, on the fateful day all the accused persons have quarreled each other and all them admitted in hospital. The petitioner's mother-in-law has been influenced by the accused 3 & 4 and as such the petitioner got separated his wife. In this regard and as well as the land dispute, there was a previous enmity between their families. After recording the statement from the petitioner, a complaint was registered in C.S.R.No.156 of 2018 and thereafter the same was registered in Crime No.324 of 2018 adding all the parties as accused. In fact all the accused 1 to 4 were arrested and on date of arrest itself, the learned Magistrate granted bail. To attract the offence under Section 160 of IPC, the following ingredients are essential.

- i. that there was a fight between two or more persons
- ii. that the fight occurred in a public place
- iii. that the fight caused terror to persons who qualify as member of the public.

4. Even according to the case of the prosecution, all four accused were quarreled each other and all of them got injured and admitted in hospital. Except the petitioner's statement, no other lodged complaint and no terror to public, because of the petitioner's and others activities. Further the entire allegations are tribal in nature and also due to previous enmity, they quarreled each other. Therefore, the petitioner need not to go for ordeal trial, since the entire proceedings is clear abuse of process of law and it cannot be sustained.

5. Accordingly, this criminal original petition is allowed and the criminal proceedings in S.T.C.No.2 of 2019 pending on the file of the Judicial Magistrate Court, Denkanikottai, is quashed as far as the petitioner is concerned. Consequently,

connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

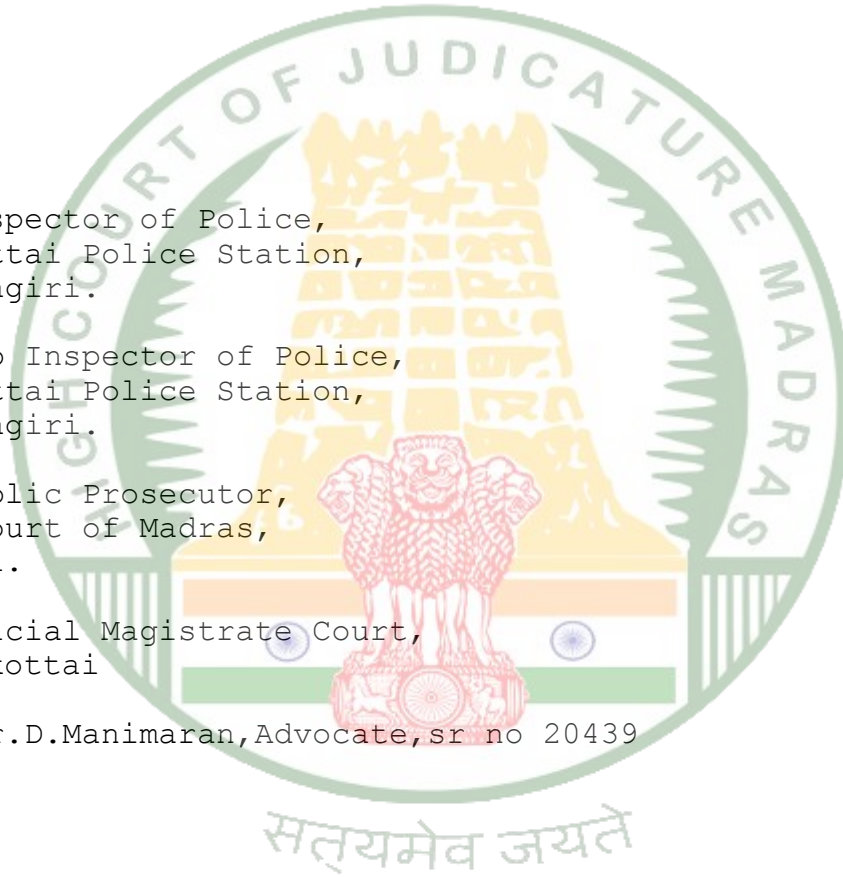
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Sub Assistant Registrar

rts

To

- 1.The Inspector of Police,
Royakottai Police Station,
Krishnagiri.
 - 2.The Sub Inspector of Police,
Royakottai Police Station,
Krishnagiri.
 - 3.The Public Prosecutor,
High Court of Madras,
Chennai.
 - 4.The Judicial Magistrate Court,
Denkanikottai
- +1cc to Mr.D.Manimaran,Advocate,sr no 20439



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RJI (CO)
GS(21/07/2020)