



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2020

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) No.14093 of 2016

- 1.V.Dharma Krishnan
- 2.Thiriveni
- 3.Rajalakshmi
- 4.R.Balasubramaniyan
- 5.G.Rajendran
- 6.G.Jothi Murugan
- 7.Venkadeswari
- 8.Avudaithai
- 9.S.Navaneedha Krishnan
- 10.S.Jayaram
- 11.N.Sankar
- 12.Jothi

... Petitioners/Accused Nos. 1 to 12

-vs-

- 1.The Sub Inspector of Police,
Malli Police Station,
Virudhunagar District,
in Crime No.158 of 2015. ... Respondent No.1 /Complainant

- 2.P.Kaliyappan
Village Administrative Officer,
Malli Village, Srivilliputhur Taluk,
Virudhunagar District. ... Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records in S.T.C.No.98 of 2016 on the file of Judicial Magistrate Court No.II, Srivilliputhur and quash the same.

For Petitioners : Mr.G.Marimuthu

For Respondents : Mr.A.Robinson,
Government Advocate (Crl.side)

O R D E R

The petitioners are facing trial in S.T.C.No.98 of 2016 on the file of the learned Judicial Magistrate No.II, Srivilliputhur for the offences under Sections 147, 341, 294(b), 353, 506(i) of IPC.



2.The learned counsel for the petitioners at the very outset stated that he would not press this Criminal Original Petition as regards petitioners 1 and 2 and that they would rather face the trial and establish their innocence on merits.

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3.In view of the said statement of the learned counsel for the petitioners, Criminal Original Petition is dismissed as withdrawn as regards the petitioners 1 and 2. Their personal appearance before the Court below is also dispensed with. It is made clear that I have not gone into the merits of the matter.

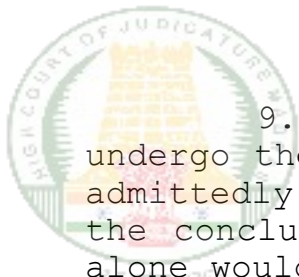
4.The learned counsel for the petitioners submitted that the impugned proceedings deserves to be quashed as regards A3 to A12. The learned counsel reiterated the contentions made in the memorandum of grounds.

5. contra, the learned Government Advocate submitted that there are specific allegations against the petitioners A3 to A12 also and therefore, this Court will not be justified in quashing the impugned proceedings in toto.

6.I carefully considered the submissions of both sides and perused the materials on record. It is seen that on 07.11.2015 at about 11.30 a.m., a group of revenue officials went to the petitioners' village for removing some encroachment. The case of the authorities is that the accused formed an obstruction and prevented them from discharging their public duties.

7.On a careful perusal of the material on record, it is seen that the primary allegations are directed only against the petitioners 1 and 2. The petitioners 3 to 12 were only said to have been standing along with the petitioners 1 and 2. It is not the case of the prosecution that the encroachment could not be removed at all. The encroachment was removed on the same day itself. When I went through the file, I could not notice any document indicating service of notice on the affected persons. There is a reference to some Court order passed in a public interest litigation. But then, there is nothing on record to indicate that there was an issuance of notice under Sections 6 and 7 of the Land Encroachment Act.

8.It is quite possible that when a team of officials suddenly enter the village and proceed to demolish property, the affected persons will make a hue and cry and there will be nothing surprising if their close relatives also joined them. In this case, even according to the prosecution, the accused 1 and 2 alone were aggressively protesting the act of removal of encroachment. The petitioners 3 to 12 were probably with them to show their solidarity as co-villagers.



9.I am of the view that the petitioners 3 to 12 need not undergo the agony of criminal trial. In fact, the encroachment was admittedly removed on the very same day, but there is some delay in the conclusion of the action. Therefore, quashing the proceedings alone would serve the ends of justice. Accordingly, the proceedings in S.T.C.No.98 of 2016 on the file of the learned Judicial Magistrate No.II, Srivilliputhur stands quashed as regards the petitioners 3 to 12 herein.

10.This Criminal Original Petition is partly allowed on these terms.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.II, Srivilliputhur.

2.The Sub Inspector of Police,
Malli Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-5153[F] dated
07/02/2020)

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06.02.2020

VB(26.02.2020) 3P 5C