



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.16373 Of 2016 and
CRL.M.P.(MD)No.7999 & 8000 OF 2016

1. Thangavel
2. Bala @ Palpandi
3. Santha

... Petitioners/Accused Nos.1 to 3

Vs.

1. State rep by
The Inspector of Police
Elumalai Police Station,
Madurai District.
(Crime No.104 of 2015)

... Respondent/Complainant

2. Karuppiah

...Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.12 of 2016 on the file of the Judicial Magistrate No.II, Usilampatti and quash the same.

For Petitioners	: Mr.S.Ramasamy
For R-1	: Mr.A.Robinson,
	Government Advocate(Crl. Side)
For R-2	: Mr.V.Manikandan

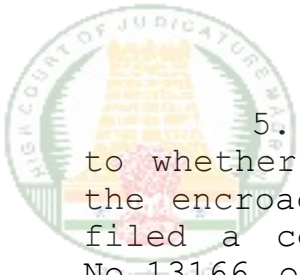
O R D E R

The petitioners are facing trial in C.C.No.12 of 2016 on the file of the Judicial Magistrate No.II, Usilampatti, Madurai District, for the offences under Sections 341, 188, 353, 294(b) and 506(ii) of I.P.C.

2. Though the defacto complainant has been served and her name is also printed in the cause list, there is no representation on his behalf.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the first respondent and the learned counsel appearing for the second respondent.

4. The case of the prosecution is that the Village Administrative Officer of Elumalai Village on 21.07.2015 at 11.00 a.m, removed the encroachment and when he was engaged in that process, the petitioners herein obstructed him. That gave rise to the impugned prosecution.



5. The Village Administrative Officer has nowhere stated as to whether he has followed the due process of law before removing the encroachments. On the other hand, the petitioners herein have filed a copy of the interim order dated 28.07.2015 in W.P.(MD) No.13166 of 2015 granting them interim stay in this regard. The Village Administrative Officer can have grievance, only if he had issued prior notice and had followed the due process of law. If he has not issued any prior notice, he cannot straightaway remove the encroachment. In such a situation if he is obstructed, he cannot obviously complain. No material has been placed before me to prove that due process of law has been followed by the defacto complainant.

6. I am of the view that continuance of the impugned prosecution is an abuse of legal process. Therefore, the impugned proceedings stand quashed. The criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate No.II,
Usilampatti.
2. The Inspector of Police,
Elumalai Police Station,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.RAMASAMY, Advocate (SR-9164[F] dated 28/02/2020)

Crl.O.P.(MD)No.16373 of 2016
27.02.2020

KB(11.06.2020) 2P 5C