



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.19474 of 2016

and

CRL.MP(MD).No.9801 of 2016

1.V.Murugan

2.V.Thiruvetta Pothi ... Petitioners/Accused Nos.1 & 2

Vs.

1.The State

Represented by the Inspector of Police

Vasudevanallur Police Station

Tirunelveli District

(Crime No.64 of 2016) ... 1st Respondent/Complainant

2.S.Subbaiah

....2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in respect of C.C.No.157 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate Court, Sivagiri and quash the same.

For Petitioner : Mr.S.Arivalagan

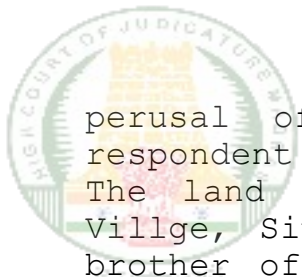
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

For R2 : Mr.AR.Jeyaruthran

ORDER

This petition has been filed to quash the proceedings in C.C.No.157 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate Court, Sivagiri.

2.The case of the prosecution is that on 15.04.2016, when the second respondent/defacto complainant visited his property comprised in S.No.413, Thirummalapuram Villge, Sivagiri Taluk, Tirunelveli District. The petitioners trespassed into the second respondent's property with spade and scolded him with filthy language and they threatened him with dire consequences by showing spade for the reasons that the property was sold out to the some third party. On



perusal of records, the petitioners are brothers. The second respondent is none other than the maternal uncle of the petitioners. The land comprised in S.No.408/1, 2 situated at Thirummalapuram Villge, Sivagiri Taluk, Tirunelveli District, owned by the elder brother of the petitioners herein. The adjacent land comprised in S.No.413 is owned by the second respondent herein. In respect, the well situated in the property owned by the petitioners is disputed by the second respondent. The second respondent along with henchman entered into the property and put up new channel on the southern side of the open irrigation well located in the petitioners' property. Therefore, the elder brother of the petitioners lodged a complaint and the same was registered in Crime No. 217 of 2015 for the offences under Sections 147, 427, 506 (i), 458 and 471 of IPC. Once again, on the occurrence, took place on 14.01.2016, the second respondent lodged a complaint on 03.03.2016 and the same was registered in Crime No.40 of 2016 as against the petitioners and their elder brother that they trespassed into his property and also cut 50 Bananas Trees.

3.While being so, again the second respondent lodged a complaint and the same was registered in Crime No.64 of 2016 for the offences punishable under Sections 447, 294 (b) and 506 (ii) of IPC. It is known that after registering the FIR, the 1st respondent completed the investigation and filed a final report before the learned District Munsif cum Judicial Magistrate Court dated 17.04.2016 itself. On perusal of the statements recorded under Section 161 (3) of Cr.P.C, list of witnesses shows that there are no specific allegations levelled as against the petitioners to attract the offences under Section 294 (b) and 506 (ii) IPC. Admittedly, there are civil dispute in respect of well between the petitioners and the second respondent and it is pending in S.A.(MD) No.113 of 2011 before this Court. Therefore, there is no question of trespass by the petitioners entered into the pump set room which is comprised in S.No.408/1, 2 situated at Thirummalapuram Villge, Sivagiri Taluk, Tirunelveli District. Insofar as the other offences under Sections 294 (b) and 506 (ii) IPC are concerned there are no specific allegations to attract those offence as against the petitioners. Since the alleged occurrence took place in the pump set room and not in the public place.

4. No ingredients are made out to attract the offences under Sections 447, 294 (b) and 506 (ii) IPC as against the petitioners. Therefore, the pendency of the proceedings in C.C.No.157 of 2016 would not serve any purpose. The entire allegations made in the complaint is trivial in nature and as such cannot be sustained as against the petitioners when it is pending in C.C.No.157 of 2016 , the petitioner need not go ordeal trial and the impugned proceedings is liable to be quashed.

5.Accordingly, the proceedings in C.C.No.157 of 2016 on the
<https://hcservices.courts.gov.in/hcservices> learned District Munsif Cum Judicial Magistrate Court,



Sivagiri., are hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

dss

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif Cum Judicial Magistrate Court,
Sivagiri.

2.Inspector of Police
Vasudevanallur Police Station
Tirunelveli District

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

Crl.O.P. (MD)No.19474 of 2016

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VB (16.02.2021) 3P 4C