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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.9997 of 2016
and
Crl.M.P.Nos.5310 & 5311 of 2016

1.N.J.Paul

1st Petitioner stands dismissed as abated
as per order in Crl.O.P.No.9997/2016
dated 30.07.2021.

2.K.Margabandhu

3.K.Balaraman

.. Petitioners 1 to 3/Accused 1 to 3

Vs.

1. State rep.by

The Sub-Inspector of Police,
Latheri Police Station.
Crime No.30 of 2015

..1st Respondent/Complainant

2.Velu @ Vinothkumar

..2nd Respondent/De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records culminating in C.C.No.159 of 2015 pending on the file of the Learned Judicial Magistrate, Katpadi, Vellore District, and quash the same.

For Petitioners.. Mr.Arun Anbumani

For R1 .. Mr.E.Raj Thilak,
Govt.Advocate(Criminal Advocate)

For R2 .. Mr.Reshmi Christy

ORDER

This Criminal Original Petition has been filed to quash further proceeding in C.C.No.159 of 2015 now pending on the file of the Judicial Magistrate Court, Katpadi, Vellore District.



2.The accused therein are the petitioners herein.

3.During the pendency of the present petition, the 1st petitioner / A1 died. However, Mr.Arun Anbumani, learned counsel for the petitioner now pressed the matter with respect to the 2nd and 3rd petitioners herein. On the basis of the allegations in the complaint a First Information Report in Crime No.30 of 2015 was registered by the 1st respondent police / Latheri Police Station under Sections 294(b), 427 and 506 (i) of IPC.

4.Mr.Arun Anbumani, learned counsel pointed out that the 1st petitioner herein, N.J.Paul had purchased lands, over which, the 2nd respondent / De-facto complainant, Velu @ Vinothkumar also claimed rights. However, the learned counsel, pointed out that the Sale Deed executed by the predecessor in title had actually been witnessed by the 2nd respondent. He was therefore aware of all the various transactions which took place over the land. It is also pointed out that the 2nd respondent claimed right as a tenant from the predecessor in title. That particular document had actually been filed in a civil proceedings in O.S.No.190 of 2013 which was pending on the file of the Subordinate Court, Vellore.

5.To examine the genuineness of that particular document, the learned Judicial Magistrate, Katpadi, had addressed the Subordinate Judge seeking the original of the said agreement, and had then forwarded the same to the Forensic Science Department and had received a report that the signature found had not been signed by the person who is claimed to have signed the Sale Deed. That is an issue which lead the petitioners herein to file a complaint as against the 2nd respondent.

6.It is also informed that final report had also been filed pursuant to investigation in that complaint and trial is proceeding before the learned Judicial Magistrate, Katpadi.

7.Be that as it may, the averments in the present Crime No.30 of 2015 are that the petitioners herein had encroached upon the lands of the 2nd respondent and had damaged crops to the value of Rs.50/- which led to filing a complaint under Section 427 IPC and had also committed offences which lead to a complaint alleging offences under Sections 294(b), 506(i) of IPC. The 2nd and 3rd petitioners as against whom alone C.C.No.159 of 2015 can today realistically proceed, owing to the fact that the 1st petitioner died, are the care takers in the local area. The petitioners had also filed an application seeking discharge and the learned Judicial Magistrate had stated that it would only be appropriate that the statement of the witnesses given under Section 161 Cr.P.C., are tested during trial and that the witnesses should be given an opportunity to state the facts



before the Court.

8.I am confident that trial would take place in manner known to law and that any statement given by the witnesses would be tested during cross-examination and for that purpose more than sufficient opportunity would be granted to the petitioner herein. With respect to the offence under Section 427 IPC, it is with respect to causing mischief and damage of crops worth Rs.50/- and the 2nd respondent will necessarily have to prove the same and his statements will have to be tested during the trial.

9.The 2nd respondent, as stated, is also facing trial as an accused with respect to producing a forged Sale Deed before a Court of law. That trial is in progress.

10.I hold that it would only proper that the 1st and 2nd respondents approach the Trial Court and conduct trial with respect to the facts stated both in the complaint and also in the final report in C.C.No.159 of 2015.

11.Mr.Arun Anbumani, learned counsel for the petitioners relied on a series of Judgments, particularly relating to offences under Sections 294 (b) and 506(i) IPC., and claimed that the offences did not taken place in a public place that there are no credible witnesses for the same. These are all issues which will have to be examined during the course of the trial. If it is established that the words uttered took place only in a private place, which according to the 2nd respondent also took place in the lands where he claimed rights, naturally the Magistrate would examine it in proper prospective.

12.Let me not interfere with the course of trial, but rather invite the petitioners herein to appear before the Magistrate and participate in the trial. It would not be proper for this Court to examine the truthfulness of the complaint and whether there ingredients of the offences are made out.

13.Let me not go any further into the facts. I would rather give a time line for the Magistrate to complete the trial. Whenever trial begins, and I would call upon the learned Judicial Magistrate, Katpadi, Vellore, to commence the trial on or before 30.09.2021, the trial is to be conducted on a day to day basis and if it is not practically possible owing to various circumstances, a maximum of three working days alone can be granted in between any two adjournments and not more than two adjournments can be granted for the very same reason. If the trial conducted in the above said manner, even before he realizes, the Magistrate would find that the trial has been completed.



14.Let a disposal be given to C.C.No.159 of 2015 by 30.11.2021. I am deliberately not examining the line of judgments quoted by Mr.Arun Anbumani, learned counsel for the petitioner and rather given him the privilege of quoting those judgments before the learned Judicial Magistrate. I am confident that the learned Judicial Magistrate would give a just decision on the facts of the case.

15.With the above observations, though the relief sought in this petition is not granted, this Criminal Original Petition is disposed of directing the parties to go back to the Trial Court. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

smv

To

1. The Judicial Magistrate Court,
Katpadi, Vellore.
2. Do Thro The Chief Judicial Magistrate,
Vellore.
3. The Sub-Inspector of Police,
Latheri Police Station.
4. The Public Prosecutor,
High Court of Madras.

+1cc to M/s.Reshmi Christy, Advocate, S.R.No.44793

Crl.O.P.No.9997 of 2016

BS(CO)
RGA(30/09/2021)