



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.8905 OF 2018

AND

CRL.M.P.NOS.4599 AND 4600 OF 2018

T.Durai

... Petitioner/Accused

Versus

1. State rep.by
The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.
(Cr.No.331 of 2013)

2. Tmt.M.Vijaya
The Tahsildar,
Harur Taluk,
Dharmapuri District.

... Respondents/
Defacto Complainants

PRAYER:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.65 of 2016 on the file of the Judicial Magistrate, Harur and quash the same.

For Petitioner : Mr.S.Doraisamy

For RR1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

The petitioner has filed this petition seeking to call for the records relating in C.C.No.65 of 2016, on the file of the Judicial Magistrate, Harur and quash the same.

2. The case of the prosecution is that the petitioner obstructed the Village Administrative Officer Surveyor and Kambainallur Police while measuring the property in S.F.No.84/1A, 41/11A and 41/11B, Patta No.53 stating that a



civil suit is pending before the District Munsif, Harur in O.S.No.127 of 2012 and thereby restrained them from doing their duties. When the same was enquired with the Government Advocate, Harur, he stated that no such civil suit is pending. Thus, the 2nd respondent herein had lodged a complaint against the petitioner by stating that he had given a false statement before the officials and prevented them from performing their duty. The investigation has been completed and charge sheet has been filed before the Judicial Magistrate, Harur, in C.C.No.65 of 2016. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that there is a dispute between the petitioner and one T.Chandrasekaran, with regard to the title of their property in S.F.Nos. S.F.No.84/1A, 41/11A and 41/11B and the petitioner has also instituted a Suit in O.S.No.127 of 2012, on the file of the District Munsif Court, Harur. One T.Chandrasekaran, suppressing the above said Suit pending between them, made application to the revenue officials for measuring the property as if the petitioner removed the border stones. On his request, the revenue officials made inspection and came forward to measure the property in question, which is the subject matter for consideration, pending before the District Munsif Court, Harur and therefore, the petitioner has stopped them from measuring the land by stating the fact of Civil Suit is pending before the lower court. Further he submitted that he did not use any physical force or commit any assault on the public servant. However, the revenue officials filed false complaint before the law enforcing agency. Further, the learned counsel in support of his contention, has drawn the attention of this Court to the provision available under Section 353 IPC and prays for allowing of the petition.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner made objections for measuring the above said property on the application made by one T.Chandrasekaran and thereby the revenue officials were not able to comply with their lawful duty. He further submitted that the matter requires adjudication on disputed question of law and this Court cannot adjudicate the matter in exercise of its power under Section 482 Cr.P.C. and prays for dismissal of the same.

5. This Court has carefully considered the rival submissions and also perused the materials available on record.

6. It is relevant to extract Section 353 IPC:

'353. Assault or criminal force to deter public servant from discharge of his duty- Whoever assaults or uses criminal force to any person being a public



WEB COPY

servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.''

7. A perusal of the above provision makes it clear that assault or criminal force to deter public servant from discharge of his duty is an offence. However, a perusal of the charge sheet filed, it reveals that all the five persons who were arrayed as witnesses are revenue officials, who came for survey and measure the property. Admittedly, the petitioner made objection for measuring the property in view of the pending Civil Suit in O.S.No.127 of 2012, on the file of the District Munsif Court, Harur. Except this allegation, no other allegations are mentioned in the Charge Sheet and no independent witnesses were examined except the revenue officials to show that the revenue officials were criminally intimidated and obstructed from discharging their duties. In the absence of any independent evidence and other materials show that criminal intimidation was meted out to the revenue officials, the charge under Section 353 IPC cannot survive. Further, it is also borne out by record that a civil suit is pending in O.S. No.127 of 2012.

8. On an overall consideration of the factual matrix, this Court is of the view that parameters contemplated under Section 353 IPC has not been satisfied and therefore, this Court has no hesitation to quash the complaint.

9. Accordingly, for the reasons aforesaid, this Criminal Original Petition is allowed and C.C.No.65 of 2016 on the file of the Judicial Magistrate, Harur, is quashed. Consequently connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sk/GLN



To

1. The Judicial Magistrate,
Harur.

2. The Tahsildar,
Harur Taluk.

3. The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.

4. The Public Prosecutor,
Madras High Court.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.32754

CRL.O.P.NO.8905 OF 2018

SPD(CO)
PBS/06/08/2021