



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

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THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.12480 of 2019
and Crl.M.P.No.6496 of 2019

R.Rajesh ... Petitioner/Accused

Vs.

1.State rep. by
The Inspector of Police,
S7, Madipakkam Police Station,
Crime No.112 of 2018,
Chennai - 600117. ... 1st Respondent/Complainant

2.Ramakrishnan ... 2nd Respondent/Defacto Complainant

Prayer:- This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the case in S.T.C.No.421 of 2018 on the file of the Judicial Magistrate at Alandur in Crime No.112 of 2018 on the file of the 1st respondent.

For Petitioner : Mr.John Sathyan

For Respondents : Mrs.G.V.Kasthuri [R1]
Additional Public Prosecutor
K.Chandrasekaran [R2]

ORDER

This Criminal Original Petition is filed calling for the records and quashing the case in S.T.C.No.421 of 2018 on the file of the Judicial Magistrate at Alandur in Crime No.112 of 2018 on the file of the 1st respondent.

2. The facts of the case:-

The petitioner and the second respondent are the neighbours; when the second respondent dug his land for some construction purposes, he found that there is some boundary stone under the



ground; subsequently, he measured the lands and with the help of a surveyor and came to know that a small extent of the property belonging to him is in the occupation of the petitioner; thereafter, he filed a criminal complaint by stating that the petitioner has encroached his land; Police has registered the F.I.R. on the basis of the above complaint for the offence under Section 448 IPC.

3. The learned counsel for the petitioner submitted that as per the definition of criminal trespass made under Section 441 of IPC, the very action of registering the F.I.R. itself is wrong. For the purpose of convenience, Section 441 of Indian Penal Code is extracted as below:-

"Criminal trespass. - Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit "criminal trespass"."

4. Even in the complaint, the second respondent did not allege any criminal intention on the part of the petitioner. On the face of it, it can be easily understood that it is a matter of civil nature and there is no specific occurrence of trespass or any other criminal offence was committed by the petitioner. Since the cause of action for civil suit has been converted into a criminal action, I feel that this is a fit matter where the inherent power of this Court should be exercised under Section 482 Cr.P.C.

In view of the above discussion, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.421 of 2018 on the file of the Judicial Magistrate, Alandur is quashed. Connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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To

1. The Inspector of Police,
S7, Madipakkam Police Station,
Chennai - 600117.

2. The Chief Judicial Magistrate,
Chengalpet.

3. The Judicial Magistrate,
Alandur.

4. The Public Prosecutor.
High Court,
Madras.

Crl.O.P.No.12480 of 2019

RP (CO)
PR (18/11/2021)