



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1. O.P. No.8670 of 2017
and CRL.M.P.Nos.6183 & 6184 of 2017

1.Ashok Barathvaj

2.Santhosh Barathvaj

3.Vikash Barathvaj

4.Ramesh Gousik

5.Kaanaakaa

...Petitioners/Accused 1 to 5

Vs.

1.The State rep. by
The Inspector of Police,
Chettipalayam Police Station,
Coimbatore.

2.Gurpreet Kaur,
Authorized Officer,
UV Assets Reconstruction Company Limited,
Reg.Off:Deepali Building,
92, Nehru Place,
New Delhi-110 019

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.127 of 2017 pending on the file of the Hon'ble Judicial Magistrate-VII, Coimbatore and quash the same.

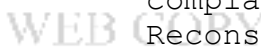
For Petitioners : Mr.R.Syed Mustafa

For Respondents : Mr.S.Vinoth Kumar
Government Advocate (Cr1.side)
for R1

R2- No appearance

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.127 of 2017 pending on the file of the Hon'ble Judicial Magistrate-VII, Coimbatore and quash the same.



3. The case of the prosecution is that the defacto complainant is an authorised officer of UV Assets Reconstruction Company and it is the case of the prosecution that as per the orders of the District Magistrate and District Collector vide their proceedings dated 15.11.2016, ordered for physical possession of the property belonging to the accused. Thereafter, on 23.12.2016, at about 15.30 hours, the said Company has taken physical possession and seized the property which was given as Collateral security by the defacto complainant. After having the possession, the defacto complainant appointed a watchman in the said premises, at that time, A1 to A5 have tried to open the lock and also abused the watchman. Thereby, they committed an offence.

5. It is to be noted that the accused is the owner of the property, who had been fell in a debt trap, for which, the appropriate proceedings are pending before the Debt Recovery Tribunal, Coimbatore. Pursuant to the orders of the District Magistrate, the accused were removed from the possession. Therefore, even assuming that such occurrence appears to be true, mere using of abusive words, when they were dispossessed from their land. Out of frustration, mere using of abusive words would not constitute any offence and it will neither fall under Section 294B of I.P.C nor criminal intimidation. Further, there is no serious allegation except that accused tried to push the watchman, no other materials unearthed by the prosecution. Admittedly, the petitioners were removed from their place, which itself indicate the fact that the petitioners were present in the said premises at the relevant point of time. Therefore, it cannot be said that they have trespassed the property. At any event, the said act would not constitute any offence and continuing the prosecution as against the petitioners is nothing but mere waste of time and abuse of process of law.

Sub Assistant Registrar



To

1.The Judicial Magistrate-VII,
Coimbatore

2.The Inspector of Police,
Chettipalayam Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.R.Syed Mustafa, Advocate SR. No.61709

Crl. O.P. No.8670 of 2017
and CRL.M.P.Nos.6183 & 6184 of 2017

MG (CO)
PR (28/12/2021)