



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.28539 OF 2017

AND

CRL.M.P.NOS.16172 AND 16173 OF 2017

1. Thiruvengadam
2. Suguna
3. Kothandam
4. Mageswari
5. Poongavanam
6. Ramesh
7. Sobhana
8. Rajendran
9. Thukkaram
10. Gajendiran
11. Perumal
12. Kaliyaperumal
13. Radhabai

... Petitioners

.Vs.

1. The Sub-Inspector of Police,
Valathy Police Station,
Valathy, Villupuram District.

2. Sankar

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.157 of 2017 on the file of the learned Judicial Magistrate, Gingee, Villupuram District and quash the same.

For Petitioners : Mr.C.Munusamy

For Respondents : Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side) for R1

Notice sent - Service awaited
For R2



O R D E R

This Criminal Original Petition has been filed to quash C.C.No.157 of 2017, pending on the file of the learned Judicial Magistrate, Gingee, Villupuram District.

2. The crux of the charge is that out of nine cents of poramboke land, the first accused has obtained patta to three cents from the Tahsildar. However, the public has objected for the same. On 4/6/2017, the second respondent and his hooligans had entered into the first petitioner's property and abused them. Hence the first petitioner has given complaint to the first respondent Police and the same was registered in Crime No.165 of 2017 under Sections 147, 148, 447, 294 (b) and 506 (ii) of the Indian Penal Code.

3. Heard Mr.C.Munusamy, learned counsel for the petitioner and Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the first respondent. There is no representation for the second respondent.

4. Learned counsel appearing for the petitioners submitted that the prosecution is nothing but an abuse of process of law. There is a civil decree in favour of the petitioners in O.S.No.601 of 2016, on the file of the District Munsif, Ginjee, wherein the defacto complainant was the first defendant. It is his further contention that Civil Court has found that the accused is the owner of the property. When the Civil Court decree is operated against the defendants, the defacto complainant and others joined together and filed a false case and then the entire statements recorded upon by the prosecution do not constitute any offence. Hence prayed for quashing the final report.

5. There is no representation on behalf of the second respondent.

6. At the outset, this Court finds that the prosecution is nothing but an abuse of process of law. No doubt, the Civil Court decree passed against the defendants in O.S.No.601 of 2016. The defacto complainant in this case is none other than the first defendant in the above suit and one of the witnesses relied upon by the prosecution is also some of the defendants in the previous suit. The prosecution has proceeded as if the property is a temple property or Government property. Accused has tried to encroach upon the property, whereas the Civil Court decree clearly indicate that the property was purchased in the year 1965 and declaration is granted in their favour and therefore, the accused going to their property cannot be considered as a trespass or unlawful assembly. The entire



statements relied upon by the prosecution even do not constitute any offence. Accordingly, final report is nothing but an abuse of process of law and the same is quashed.

7. In the result, this Criminal Original petition is allowed. Proceedings in C.C.No.157 of 2017 pending on the file of the learned Judicial Magistrate, Gingee, Villupuram District is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Judicial Magistrate,
Gingee, Villupuram District.
2. The Sub-Inspector of Police,
Valathy Police Station,
Valathy, Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.28539 OF 2017

CP(CO)
PBS/05/01/2022