



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.654 of 2020

Justin Kumar

: Petitioner/Petitioner

Vs.

1.Alexandar
2.Selin
3.Arjith
4.Rani
5.Bejo
6.Kala
7.Arockiyarajan
8.Sajila
9.Amalraj
10.Aruldas

: Respondents/Respondents

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the order passed by the Judicial Magistrate No.1, Padmanabhapuram, CMP No.1454 of 2020, dated 09.09.2020.

For Petitioner : M/s.Karthigai Priya
for Mr.A.Balakrishnan
For Respondents: Mr.R.J.Karthick

O R D E R

This Criminal Revision is filed challenging the order passed by the Judicial Magistrate No.1, Padmanabhapuram, CMP No.1454 of 2020, dated 09.09.2020.

2.The petitioner is the resident of Mecode Village. A civil suit is pending on the file of the District Munsif, Padmanabhapuram, in O.S No.12 of 2020 between the petitioner and the respondents. Pending suit, the respondents along with persons from other villages have gathered in the suit property, on 04.08.2020 at about 5.30 pm, in large numbers, defying the lock down imposed by the Government and have conducted 'Thirupali ceremony.' When the petitioner questioned the same, the respondents threatened him and the ceremony was carried on, in-spite of warning of the Thuckalay Police. The petitioner informed about the same to the Thuckalay Police station. As no action was taken on the part of the police officials, the



petitioner filed CMP No.1454 of 2020 on the file of the Judicial Magistrate No.1, Padmanabhapuram. The said petition was dismissed by the trial court, by order, dated 09.09.2020. Aggrieved over the same, the petitioner is before this court

3. Heard both sides and perused the materials available on record.

4. The contention of the petitioner/complainant is that the petitioner complied all the procedures contemplated under section 156(3) of Criminal Procedure Code and the complaint given by the petitioner constitutes cognizable offence and the pendency of the civil suit between the parties is not a bar to make a criminal complaint by the parties concerned and during the pandemic situation, the respondents gathered together and committed the offence under section 3 of Epidemic Disease Act, 1897 and prays that the criminal revision has to be allowed.

5. The main contention of the respondents is that the disputed is civil in nature and hence, the petition filed under section 156 (3) Cr.P.C is not maintainable.

6. The petitioner stated that the respondents 1 to 10 attempted to construct a Church in R.S No.777/2 of Meckode village by encroaching the public usage water resources and the poramboke land and the people of that locality opposing the same and hence, O.S No.12 of 2020 was filed for the relief of injunction and mandatory injunction and during the pendency of the suit, the respondents 1 to 10 along with some other persons assembled in the disputed property and conducted prayer by defying the lock down imposed by the Government without following any preventive measures and when it was questioned, the respondents 1 to 10 threatened and for that, a complaint was given, but no action was taken and hence, they filed the petition under section 156(3) Cr.P.C.

7. It is an admitted fact that for the construction by the respondents 1 to 10 in the disputed property, already a civil suit has been filed and it is pending. As per the decision reported in **(2009)2 SCC 363 (Raghu Raj Singh Rousha Vs. Shivam Sundaram Promoters Private Limited and another)**, when the dispute is civil in nature, the petition filed under section 156(3) Cr.P.C is not maintainable. In this case also, the dispute is civil in nature and hence, the petition filed under section 156(3) Cr.P.C., is not maintainable. Hence, the trial court has correctly come to the conclusion that the dispute is civil in nature and the petition filed under section 156(3) Cr.P.C is not maintainable. This court finds that there is no need to interfere into the findings of the trial court.



8. In the result, this criminal revision is **dismissed**.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

The Judicial Magistrate No.1,
Padmanabhapuram,

Copy to

The Section Officer, Criminal Section(2C)
Madurai Bench of Madras High Court, Madurai

Crl.RC (MD) No.654 of 2020
16.07.2021

PM(CO)
KB(28.07.2021) 3P 4C