



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.687 of 2020

Panchanathan Chettiyar

.. Petitioner

Vs.

1.The Inspector of Police
Alangudi Police Station,
Alangudi,
Pudukkottai District.

2.Kulanthaivelu .. Respondents
(R2 impleaded as per order of this Court,
dated 22.01.2021, in Crl.M.P.(MD)No.455 of 2021

Prayer : This Revision Case filed under Section 397 r/w. Section 401 of Cr.P.C., to allow the revision and to call for the records pertaining to the order passed in Cr.M.P.No.282 of 2020 on the file of the District Munsif cum Judicial Magistrate, Alangudi, dated 23.10.2020 and to set aside the same.

For Petitioner : Mr.A.V.Rajasekaran

For Respondent : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This revision has been filed to set aside the order passed in Cr.M.P.No.282 of 2020 on the file of the District Munsif cum Judicial Magistrate, Alangudi, dated 23.10.2020.

2.The petitioner filed a petition under Section 156 (3) Cr.P.C. before the District Munsif cum Judicial Magistrate, Alangudi, in Cr.M.P.No.282 of 2020. That petition was dismissed by the Magistrate on 23.10.2020. Against the dismissal of the petition, the petitioner preferred this Revision.



3.On the side of the petitioner, it is stated that the petitioner is the owner of a particular property and he has planted Eucalyptus trees in that land. There is a civil case pending in O.S.No.439 of 2018 before the Court. The second respondent and his henchmen in an attempt to encroach the land, on 02.02.2020, have trespassed into the property and cut the Eucalyptus trees worth about Rs.5,00,000/- (Rupees Five Lakhs only). The petitioner filed a complaint before the Inspector of Police, Alangudi. Since no case was registered, the petitioner preferred a petition under Section 156(3) Cr.P.C. That petition was dismissed by the Magistrate only on a single ground that the dispute is civil in nature. Though the petition was pending before the Magistrate for the past eight months, the respondent police had not filed any reply as to the closure of the petition and prayed the revision to be allowed.

4.On the side of the first respondent, it is stated that the complaint given by the petitioner was numbered as C.S.R.No.555 of 2020 and the same was closed as civil in nature. Both the parties have given a statement that they will settle the matter before the civil Court. There was no injunction order against the second respondent and prayed the petition to be dismissed.

5.On the side of the second respondent, it is stated that the complaint was given only after five days from the date of alleged occurrence. A civil suit is pending between the parties and the petitioner has no right over the property as the patta stands in the name of the second respondent. Only to delay the civil suit, the petitioner is trying to convert a civil dispute as a criminal case. The petitioner is not the owner of the property and he has no *locus standi* to file this petition and prayed the petition to be dismissed.

6.It is seen that the petition filed by the petitioner was numbered as C.S.R.No.555 of 2020 and the same was closed by the first respondent. The allegation is that the first respondent failed to report the closure of the petition before the lower Court, which is not maintainable, as there was no F.I.R registered.

7.Admittedly there is a civil dispute pending between the petitioner and the second respondent. When a civil dispute is pending, the petitioner cannot claim himself as the absolute owner of the property. Unless he proved himself as the owner of the property, he cannot take any action against the second respondent for cutting trees in the property. If at all the petitioner seeks any remedy, it should be only through the civil Court and not through the criminal Court.



8. In the above circumstances, there is nothing wrong in the order of the Judicial Magistrate, Alangudi. For the above reasons, this Criminal Revision Case is dismissed.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True 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

1. The District Munsif cum Judicial Magistrate,
Alangudi.
2. The Inspector of Police
Alangudi Police Station,
Alangudi, Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer, Criminal Section (Records)-2 copies
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr. S. POORNACHANDRAN, Advocate (SR-6616[F] dated
23/02/2021)

Crl. R.C.(MD)No.687 of 2020
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KM (05.03.2021) 3P 7C