



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.R.C. (MD) .No.831 of 2017

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V.Murugan

.. Revision Petitioner/Petitioner
/Vs./

1.Muniasamy
2.Vannimuthu
3.Selvam
4.Mookkammal
5.Veeranan
6.Ayyammal
7.Selvi
8.Jayakumar
9.Muthuraj

Inspector of Police,
Kadaladi Police Station, Kadaladi,
Ramanathapuram District.

... Respondents/Respondents

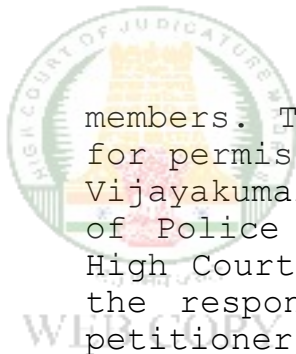
PRAYER: This Civil Revision Case is filed under Sections 397 (1) r/w 401 of the Criminal Procedure Code, to call for the records relating to the impugned order passed in Cr.M.P.NO.1492 of 2017, dated 14.09.2017 on the file of the learned Magistrate, Muthukulathur and set aside the same and allow the Criminal Revision Petition with cost.

For Petitioner : Mr.K.C.Ramalingam
For Respondents : Mr.T.Senthil Kumar, for R1 to R8

O R D E R

The petitioner filed private complainant before the learned Judicial Magistrate, Muthukulathur in Cr.M.P.No.1492 of 2017. That petition was dismissed by the Court. Against the dismissal of the case, the petitioner has come forward with this revision petition.

2.The petitioner purchased a property on 14.07.2016 with an extent of 4 ½ cents. He put up fence and he put up a tin shed in the property. The neighbour of the property one Vannimuthu filed a petition for survey and the Revenue Tahsildar measured the property on 31.02.2016. But again without notice to the petitioner on 26.09.2016 at about 10.00 a.m. the Tahsildar and Special Sub Inspector of Police, Gunasekaran conspired together with Veeranan and 7 others without measuring the property ordered the petitioner to remove the fence and the shed within a period of three days and further threatened the petitioner if the fence and the shed were not removed within three days, to arrest the petitioner and his family



members. The petitioner filed a petition under Section 187 Cr.P.C. for permission to file a criminal case against The Revenue Tahsildar Vijayakumar, Head Surveyor Nagarajan and the Special Sub Inspector of Police Gunasekaran. The petitioner filed a petition before the High Court under Section 482 of Cr.P.C. and this Court has directed the respondent to register a case against the accused. When the petitioner has filed an contempt petition, they inspected and filed a false report before the Court and a direction was issued to the petitioner to approach the Judicial Magistrate. The trial Court failed to consider that all the accused tress passed into the property of the petitioner and they uprooted the stone pillars erected by the petitioner. They have destroyed the fencing and asbestos shed put up by the petitioner. The worth of the damaged property is more than Rs.1,00,000/- (Rupees One Lakh only). The Magistrate failed to peruse the records, photographs and CD and prayed the impugned order to be set aside. The petitioner has examined three witnesses and has marked 11 documents. The trial Court failed to consider all these documents and evidences.

3.On the side of the respondent it is stated that the revision respondent is the adjacent owner of the land. He filed a petition for survey. The Tahsildar surveyed the land. All the allegations are against the Tahsildar and Special Sub Inspector of police. In the sworn statement it was not stated that the Inspector indulged in any offence. Though the entire allegations is against the Tahsildar and Sub Inspector, no sanction was granted to the petitioner under Section 197 Cr.P.C. PW2 was not at all present in the place of occurrence at the time of alleged occurrence. The entire case is civil in nature and prayed the petition to be dismissed.

4.The perusal of the records reveals that the allegations and the complaint is only against the Sub Inspector of Police, Revenue Tahsildar and the Surveyor. It is stated that they threatened the petitioner to remove the fence and the shed within a period of three days. Already the petitioner has approached this Court in Crl.O.P. (MD).No.19586 of 2016. A direction was issued by this Court to expedite the enquiry and to complete the same within a period of two weeks. The petitioner again filed a petition. It is stated that the petitioner has filed a contempt petition before this Court, wherein, this Court has given liberty to the petitioner to file a private complaint. The copy of the order was not annexed with this petition.

5.On the side of the respondents a Judgment of this Court made in the case of ***S.Saravanan Vs. Mr.Paulraj*** in Crl.R.C.(MD)No.66 of 2018 is cited The relevant portion is read as follows:

"7.This Court also perused the sworn statements of S.Saravanan and his two witnesses namely, M.Velmurugan and S.Karthik. It may be necessary to re-state here that S.Saravanan, admittedly, is



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a practising Advocate and he is supposed to know the law. The Hon'ble Supreme Court in *Joginder Kumar Vs. State of U.P.* In 1994 SCC (4) 260, has clearly held that the power of police to arrest a person is one thing and the exercise of power is yet a different thing. In other words, the police have been given a discretion to arrest or not to arrest an accused."

6.A perusal of the petition in Crl.M.P.No.1492 of 2017, reveals that there was no case against the respondents 1 to 8. The entire allegations put forth by the petitioner is only against the Tahsildar, Surveyor and the Sub Inspector of Police. The petitioner side documents No. 5 to 7 are not sufficient enough to fix a *prima facie* case against the respondent. Documents No.3 and 4 reveals that the Tahsildar and the Surveyor attended the survey work. The name of the respondents 1 to 8 were not mentioned in the original complaint filed by the petitioner. No specific overt act was mentioned against the respondents 1 to 8 in the original petition. The occurrence is alleged to have taken place on 08.10.2016. The same was not mentioned in the original complaint. In view of the same, it is decided that the petitioner failed to prove that a *prima facie* case is made out against the respondents 1 to 8. Hence, nothing sufficient enough to interfere in the impugned order.

7.Hence, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Muthukulathur.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

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

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-37485[F] dated 06/12/2021
Crl.R.C. (MD).No.831 of 2017
02.12.2021

SAR(CO)

KB(07.01.2022) 3P 6C

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