



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.06.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.13180 of 2022

and

Crl.M.P.No.7083 of 2022

1.G.Peter Ronald @ Ronald
2.M.Manikandan

...Petitioners

Versus

1.The State represented by
The Inspector of Police,
Ambalamoola Police Station,
The Nilgiris 643 240.
Crime No.93 of 2021.

2.Karnan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to call for the records and quash the FIR in Crime No.93 of 2021 on the file of the first respondent police and quash the same.

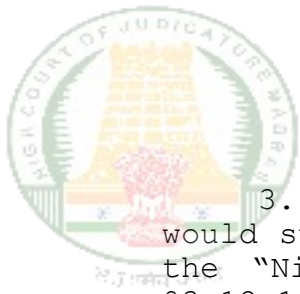
For Petitioners: Mr.B.Ramamoorthy

For Respondents: Mr.Leonard Arul Joseph Selvam for R1
Government Advocate (crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.93 of 2021 for the offences punishable under Sections 447 and 397 of IPC on the file of the first respondent police, based on the complaint lodged by Village Administrative Officer.

2. The allegation in the FIR is that as if the petitioners using the Hitachi machinery uprooted the trees in the land belonging to the Government. Thereby, they have been prosecuted and FIR has been registered for the offences punishable under Sections 447 and 397 of IPC.



3. Mr.B.Ramamoorthy, learned counsel for the petitioners would submit that the land in question was placed in disposal of the "Nilgiris Wynad Tribal Welfare Society", as early as on 03.12.1981 by the proceeding of the District Collector, the Nilgiris in Proceedings No.Rc.U3.No.36514/81 and it also invited the attention of this Court to the proceedings dated 27.01.1982 addressed to the Revenue Inspector, Pandhalur to hand over the possession. His further contention is that the Village Administrative Officer Munnadu Village has also given a report to the effect that despite the fact that the name of the society found place in the village records, it has not been carried out in the revenue records and there are no objections to carry out the entries in the revenue records. He would further submit that the land is already in possession and assigned legally, merely on the basis of records not been updated the accused had been proceeded. Hence, the FIR is nothing but an abuse of process of law.

4. Mr.Leonard Arul Joseph Selvam, learned Government Advocate (crl.side) would submit that accused has not disputed the proceedings of the District Collector, the Nilgiris in handing over the possession of the property. On perusal of the undisputed documents, this Court is of the view that as early as 1981, the land was given possession to the Tribal Welfare Society. As per the proceedings dated 03.12.1981 and further proceedings dated 27.01.1982, the land was given possession to the Tribal Welfare Society and the Village Administrative Officer's statement proves the above fact. Therefore, when the possession is already given legally as per the assignment, such possession cannot be constructed as illegal. Therefore, the mere cleaning in certain area by removing the exotic trees will not attract the alleged offences.

5. In such view of the matter, the continuation of the FIR is nothing but an abuse of process of law. Hence, the FIR in Crime No.93 of 2021 for the offences under Sections 447 and 397 of IPC on the file of the first respondent police is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

shk/rgi



To

1. The Inspector of Police,
Ambalamoola Police Station,
The Nilgiris 643 240.

2. The Public Prosecutor
High Court, Madras.

+lcc to Mr.B.Ramamoorthy, Advocate SR.No.33822

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SKM(CO)
GMY(27/06/2022)