



WEB COPY



Crl.O.P.(MD)No.10176 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.10176 of 2019

and

Crl.MP(MD)Nos.6410 and 6411 of 2019

1.Mariyappan
2.Karuppasamy
3.Poosamani
4.Mariappan : Petitioners/A1 to A4

Vs.

1.The Inspector of Police,
Surandai Police Station,
Tirunelveli.
(Crime No.173 of 2016) : R1/Complainant
2.Saravanan : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to STC No.319 of 2019 on the file of the Judicial Magistrate, Alangulam and quash the same

For Petitioner : Mr.Ananth C.Rajesh

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

For 2nd respondent : No appearance



Crl.O.P.(MD)No.10176 of 2019

O R D E R

WEB COPY

This criminal original petition is filed seeking quashment of the STC No.319 of 2019 on the file of the Judicial Magistrate, Alangulam.

2.The case of the prosecution in brief:-

One Chandra Mohan is the friend of the de-facto complainant. He is owning property on the eastern side of Kulayaneri Village. Catchment area exists in the property of the above said Chandra Mohan. Dispute existed between the villagers and the above said Chandra Mohan. On 16/08/2016, the villagers blocked the road, which led to Chandra Mohan's property by putting gravel sand. On 17/08/2016 at about 9.00 am, the de-facto complainant questioned about the blocking of the road by the accused persons. At that time, A1 Mariyappan abused him in filthy language and A2 also abused him in filthy language. They also criminally intimidated with dire consequences. Based upon the complaint given by the de-facto complainant, a case in Crime No.173 of 2016 was registered for the offences under sections 341, 294(b) and 506(i) IPC. After completing the formalities of investigation, final report



Crl.O.P.(MD)No.10176 of 2019

was filed and it has taken cognizance by the Judicial Magistrate, Alangulam, in STC No.319 of 2019.

3. Seeking quashment of the same, this petition has been filed by the petitioners.

4. Heard both sides.

5. As mentioned in the preamble portion, it is seen that there was a pathway dispute between one Chandra Mohan and the accused persons and the villagers. The allegation against the petitioners is that on 16/10/2016, they blocked the road to the above said Chandra Mohan's property. When that was objected by the de-facto complainant, the occurrence said to have been taken place. How the de-facto complainant interested in the affairs of the above said Chandra Mohan is not clear on record. In the statement, he has stated the Chandra Mohan is his Master.

6. It is the case of the petitioners that the trouble arose between the above said Chandra Mohan and the villagers, when he purchased the property, which was situated on the western portion of Oorani in Usilankulam tank. The vendor of the above said Chandra Mohan was a



Crl.O.P.(MD)No.10176 of 2019

party to the suit in O.S No.107 of 1947, which was filed by the villagers for restraining the above said vendor namely Velayutha Nadar and for mandatory injunction, since he damaged a portion of the tank bund. That suit was decreed and appeal filed against that suit was dismissed. By purchasing the property from the above said Velayutha Nadar, they made trouble to the villages by blocking. Even though steps have been taken by the villagers to remove the block, no action was taken. Now some of the youngsters damaged. This things cannot be taken at this stage. These facts require proper evidence. Even though the judgments passed in O.S No.107 of 1949 and the Appeal Suit No.17 of 1059 have been produced, it appears that the complaint has been made by the villagers against the above said Chandra Mohan stating that he made encroachment upon the catchment area of the Usilankulam Tank.

7.As mentioned earlier, it is the allegation that no action was taken by the Revenue Authorities and they have pursued their remedy through the civil process.

8.Now leaving all those factual issues aside, let us go to the allegations made in the FIR and in the final report. The date of occurrence said to have taken place, on



Crl.O.P.(MD)No.10176 of 2019

16/06/2016. But the complaint was given on 05/09/2016. Even though there is delay in preferring the complaint, that cannot be a ground for quashment of the FIR.

9. Section 294(b) IPC reads as follows:-

"294(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

10. Section 341 IPC reads as follows:-

"341. Punishment for wrongful restraint.—Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both."

11. Section 503 IPC reads as follows:-

"503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to



WEB COPY



Crl.O.P.(MD)No.10176 of 2019

cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

12.As mentioned earlier, it appears that there was continuous dispute between the villagers and the above said Chandra Mohan with regard to the alleged encroachment issue. It has been stated that the accused persons abused him in filthy language and also criminally intimidated. If really the 2nd respondent entertained fear of life because of the threat made by the petitioners, he ought to have given a complaint immediately. But that was not done. Moreover, it appears that only verbal quarrel occurred between the parties, which has been given exaggerated version. Absolutely, there is no ingredient to show that the de-facto complainant was prevented from proceeding in a particular way or a particular direction.

13.Similarly the offence under 294(b) IPC is also not attracted. Since it appears that it is only a wordy quarrel between them. So also the offence under section 506(i) IPC



Crl.O.P.(MD)No.10176 of 2019

is not attracted, since there is no allegation to the effect that because of threat made by the petitioners, he entertained threat to his life.

14.In the light of the above, this court is of the considered view that continuation of the proceedings against the petitioners is an abuse of process of court and law. So, it is liable to be quashed and accordingly, it is quashed.

15.In the result, the criminal original petition is **allowed**. The impugned STC No.319 of 2019 on the file of the Judicial Magistrate, Alangulam against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

07/04/2022

Internet:Yes/No
Index:Yes/No
er



Crl.O.P.(MD)No.10176 of 2019

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.



WEB COPY



Crl.O.P.(MD)No.10176 of 2019

G . ILANGO VAN , J . ,

er

To,

- 1.The Judicial Magistrate,
Alangulam,
Tirunelveli.
- 2.The Inspector of Police,
Surandai Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.10176 of 2019

07/04/2022