



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

**CORAM**

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**Crl.O.P. (MD)Nos.20607 & 8378 of 2021**  
**and**  
**Cr.M.P. (MD)Nos.4301 & 4302 of 2021**

**Crl.O.P. (MD)No.20607 of 2021:**

S.Subramanian

... Petitioner/ Accused No.1

Vs.

The State represented by  
The Inspector of Police,  
Emaneswaram Police Station,  
Ramanathapuram District.  
(Crime No.73 of 2018)

... Respondent/Complainant

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the learned Judicial Magistrate, Paramakudi, herein to recall the Non Bailable Warrant dated 02.07.2021 issued against the petitioner in P.R.C.No.75 of 2019, on the file of the learned Judicial Magistrate, Paramakudi, on the same day of filing a petition filed under Section 70(2) Cr.P.C without insisting for the presence of the petitioner.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.B.Thanga Aravindh

Government Advocate (Criminal Side)

**Crl.O.P. (MD)No.8378 of 2021:**

1.S.Subramanian

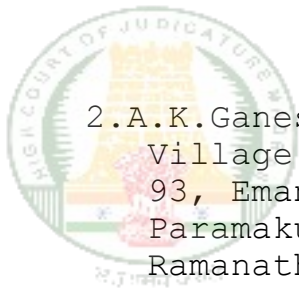
2.Govindharaju

... Petitioners/Accused No.1 & 2

Vs.

1.The State represented by  
The Inspector of Police,  
Emaneswaram Police Station,  
Ramanathapuram District.  
(Crime No.73 of 2018)

... 1<sup>st</sup> Respondent/Complainant



2.A.K.Ganesan,  
Village Administrative Officer,  
93, Emaneswaram Group,  
Paramakudi Taluk,  
Ramanathapuram District.

... 2<sup>nd</sup> Respondent/  
Defacto Complainant

WEB COPY

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to P.R.C.No.75 of 2019, on the file of the learned Judicial Magistrate, Paramakudi and quash the same.

For Petitioners : Mr.C.Senthil Murugan  
For Respondents : Mr.B.Thanga Aravindh  
Government Advocate (Crl.Side) for R.1

#### COMMON ORDER

Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal Side) appearing for the first respondent.

2. Crl.O.P.(MD)No.8378 of 2021 has been filed to quash the proceedings in P.R.C.No.75 of 2019 on the file of the learned Judicial Magistrate, Paramakudi. The case of the prosecution is that the petitioner herein along with the other accused entered the property comprised in Survey No.276/1 in Emaneswaram Group measuring an extent of 2.02.5, cut and removed Eucalyptus trees without the knowledge of the Government.

3. According to the prosecution, the land in question is a Government land and that the petitioner had committed trespass. The local Village Administrative Officer is the defacto complainant in the said case. Based on his complaint, Crime No.73 of 2018 was registered on the file of Emaneswaram Police Station and final report came to be filed. The jurisdictional Magistrate took cognizance of the offences under Section 447 IPC and 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992. Since the case is triable by the Sessions Court, the case is pending at the stage of committal as of now. At this stage, this Criminal Original Petition has been filed to quash the same. Pendency of the proceedings is due to non appearance of the petitioner. Non-bailable warrant has also been issued against him. One Criminal Original petition has been filed for quashing the proceedings and the other Criminal Original Petition has been filed to recall the warrant.

4. The learned counsel appearing for the petitioner drew my attention to the judgment and decree, dated 06.08.2020 made in O.S.No.19 of 2018 on the file of the Additional District and Sessions Court, Paramakudi. The said suit was filed by the



petitioner herein and the relief was sought for declaration and permanent injunction. I went through the suit schedule and the decree. The suit was decreed in favour of the petitioner. The suit property is covered under old Patta No.593, comprised in Survey No.276/1 in Emaneswaram Village.

5. I am more than satisfied that the subject matter on hand is covered by the decree in the civil suit. I wanted to know from the learned Government Advocate (Criminal Side) as to whether the judgment and decree passed in favour of the petitioner has been put to challenge by the Department. The answer is in the negative. As on date, the civil Court's decree is operating in favour of the petitioner. When the jurisdictional civil Court has categorically declared that the property in question belongs to the petitioner, the very foundation on which, the criminal case is anchored has been totally undermined. The continuance of the impugned prosecution amounts to an abuse of legal process. The impugned proceedings are quashed. As a result, the non-bailable warrant issued against the petitioner is also quashed. Both the Criminal Original Petitions are allowed. The benefit of this order will enure in favour of the non-petitioning second accused also. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

**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 Judicial Magistrate,Paramakudi.

2.The Inspector of Police,

Emaneswaram Police Station,Ramanathapuram District.

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD)Nos.20607 & 8378 of 2021

and

Cr.M.P.(MD)Nos.4301 & 4302 of 2021

24.01.2022

MGJ(04.02.2022) 3P 4C

<https://hcservices.ecourts.gov.in/hcservices/>