



Crl.O.P.No.5527 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5527 of 2021
and
Crl.M.P.No.3559 of 2021

V.K.Tamilmani

... Petitioner

Vs

1. The State Represented by
The Sub-Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.
(Cr.No.69/2021)

2. Mani @ Loganathan

3. V.G.Thirumalai

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records in connection with C.C.No.891 of 2022 on the file of the Judicial Magistrate No.II, Chengalpattu and quash the same.

For Petitioner : Mr.R.Sankarasubbu

For Respondent 1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For Respondent 2 : Mr.P.P.Rajkumar



Crl.O.P.No.5527 of 2021

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.891 of 2022 on the file of the Judicial Magistrate-II, Chengalpattu for the offences under Sections 447, 427 294(b), 323,506(ii) and 109 of IPC.

2. The case of the prosecution is that, the complainant is the Power of Attorney of the 3rd respondent herein, in respect of the land comprised in Survey Number 74/1 admeasuring 2.22acres situated at Vedhanarayanapuram Village, Malaiyandi Venbakkam Post, Chengalpattu. While being so, for the said land is under dispute, a suit in O.S.No.174/2011 was filed. While being so, on 23.02.2021, the first accused trespassed the said property by lorry bearing registration No.TN-12-P-1015 and unloading sand in the said land. When it was questioned by the defacto-complainant, this petitioner threatened with dire consequences and abused with filthy languages. Hence, the complaint.



CrI.O.P.No.5527 of 2021

3. On receipt of the compliant, FIR was registered in Cr.No.69 of 2021 for the offences under sections 447, 427, 294(b), 323, 506(ii) of IPC r/w.109 of IPC. Investigation was completed and the respondent police filed a final report and the trial court taken cognizance in C.C.No.891 of 2022 on the file of the Judicial Magistrate No.2, Chengalpattu.

4. The learned counsel for the petitioner submitted that the petitioner initially filed a quash petition to quash the FIR in Cr.No.69 of 2021. While pending, this court passed an order of interim stay. The first respondent completed investigation. Thereafter, amendment petition was filed to amend the prayer to quash the entire proceedings in C.C.No.891 of 2022 on the file the Judicial Magistrate-II, Chengalpattu. The learned counsel for the petitioner further submitted that this petitioner is arrayed as 2nd accused and charged for the offences under sections 447, 427, 294(b), 323, 506(ii) r/w 109 of IPC.



Crl.O.P.No.5527 of 2021

WEB COPY

5. On perusal of the documents, it is revealed that the first accused was only present at the time of occurrence on 23.02.2021. Admittedly, the subject land is in dispute, hence suit in O.S.No.174/2021 was filed. At the time of occurrence, the first accused told that he was instructed and instigated by the petitioner to commit the said offence. Only the said word and no other material produced by the first respondent in order to prosecute the petitioner for the charge under sections 447, 427, 294(b), 323, 506(ii) r/w 109 of IPC. Since, the petitioner already involved in Criminal case, he has been falsely implicated in the present case. As far as the present case is concerned, no material is available as stated by the petitioner to prosecute him for the charge under section 109 of IPC. In fact, the confession statement of the 1st accused also not recorded by the first respondent in order to substantiate the charge under section 109 of IPC as against the petitioner. As such, this proceedings as against the petitioner is clear abuse of process of law and the petition is liable to be quashed.



Crl.O.P.No.5527 of 2021

WEB COPY

6. In view of the above, the entire proceedings in C.C.No.891 of 2022 on the file of the Judicial Magistrate-II, Chengalpattu is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

17.11.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
gvn

To

- 1) The Judicial Magistrate No.II,
Chengalpattu
- 2) The Sub-Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.
- 3) The Public Prosecutor,
High Court Madras.



WEB COPY



Crl.O.P.No.5527 of 2021

G.K.ILANTHIRAIYAN, J.

gvn

Crl.O.P.No.5527 of 2021

17.11.2023