



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	03.08.2023
Pronounced on	08.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

R.Umapathy

...Petitioner in Crl.O.P.No.12898 of 2020

A.Jeeva

...Petitioner in Crl.O.P.No.15491 of 2020

1.R.Ashokkumar

2.S.Anandapadmanaban

3.K.Palanisamy

...Petitioners in Crl.O.P.No.15615 of 2020

S.R.Parthiban

...Petitioner in Crl.O.P.No.5699 of 2022

vs.

1.The State rep by
The Inspector of Police,
Mecheri Police Station,
Salem District.
(Crime No.265 of 2019)

2.T.Thirumurugan,
Forest Ranger,
Office of the Social Forest,
Omalur, Salem District.

...Respondents in all OPs



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

COMMON PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to PRC No.8 of 2020 on the file of the Judicial Magistrate II, Mettur and to quash the entire proceeding in so far as the petitioner is concerned for the interest of justice.

For Petitioners
in all OPs : Mr.N.R.Elango, Senior counsel
for Mr.A.M.Esakkiappan

For Respondents
in all OPs : Mr.E.Raj Thilak
Additional Public Prosecutor, for R1

COMMON ORDER

These criminal original petitions have been filed by the petitioners ranked as A1 to A6 to quash the proceedings in PRC.No.8 of 2020 on the file of the learned Judicial Magistrate No.II, Mettur.

2. The forest ranger belonging to the office of the Social Forest Range, Omalur, gave a complaint on 18.06.2019 to the 1st respondent stating that the accused persons had cut down the trees and had encroached upon forest lands and when the Forest Range Officer went to conduct an inspection, along with other officials, they found that a check post has been created and it contained a



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

mobile number. When they called to that mobile number, the person at the other

end claimed that he is the watchman and that he works for A1, who is the Member of Parliament and that they cannot enter into the property and if they attempt to go into the property, they were threatened with dire consequence. On further enquiry and inspection, they found that the trees have been cut down, rock and stones have been removed and the entire landscape has been virtually mutilated and also the forest land has been encroached upon and a way has been created to access the property belonging to R.Ashokkumar (A2) and S.Anandapadmanaban (A3). This act is said to have been done during the period from 2011 to 2016. Based on the complaint given by the second respondent, an FIR came to be registered against the accused persons on 18.06.2019 for the offence under Sections 353, 379, 447, 506(i) of IPC and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 (hereinafter called as “TNPPDL Act”).

3. The investigation was conducted based on the FIR and a final report came to be filed before the learned Judicial Magistrate No.II, Metur, against six accused persons and it was taken cognizance for offences under Sections 353, 379, 447, 506(ii), 403 and 176 and 109 of IPC and Section 3(1) of TNPPDL Act. Aggrieved by the same, the accused persons have filed these criminal



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

original petitions.

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4. This Court has carefully considered the submissions made on either side and perused the materials available on record.

5. The main contentions that were raised on the side of the petitioners are that the entire complaint is attended with malafides since a defamation complaint came to be given on 07.06.2019 based on certain allegations made by A1 against the then Chief Minister of Tamil Nadu. As a sequel, the present complaint came to be given immediately thereafter on 18.06.2019. It was further contented that different events that were said to have been taken place between the years 2011 and 2016 and one incident that took place on 18.06.2019 was clubbed to give an impression as if the forest lands have been encroached and the officials were threatened. The further contention was that the subject property was already sold in the month of May 2019 by A2 and A3 and on the alleged date of incident i.e., on 18.06.2019, the property was no longer owned by A2 and A3. Hence, there is no occasion for A1 to threaten by himself or through his watchmen.



CrI.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

6. The other contention, that was raised, was that none of the offence is made out and as a consequence, the learned counsel appearing on the side of the petitioner sought for quashing of the entire proceedings.

7. The main cause of action for filing the complaint was the alleged incident that took place on 18.06.2019. Even as per the complaint, no one was present near the property and it is stated that a mobile number was available in the spot and when the concerned person was called, he claimed that he is the watchmen of A1 and he informed that A1 is the owner of the property and further he had also threatened the second respondent over phone. Thereafter the said watchmen (A4) is said to have come to the spot and prevented the officials from performing their duty and also threatened them with dire consequences.

8. With this cause of action, the prosecution has further developed the case to the effect that the forest lands were encroached and trees and rocks were removed and the entire landscape was virtually mutilated and a road was created to approach the property belonging to A2 and A3.



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

9. On carefully going through the 161 statements, that were recorded from the witnesses, it is seen that the witnesses have clearly spoken about the destruction of the trees and the laying of the road to access the property belonging to A2 and A3. All of them in one voice have stated that A1 used his political power to encroach upon the forest land and had gone to the extent of putting up a check post. The forest officials have helped the accused persons in laying a road in the forest land as an access to the property belonging to A2 and A3.

10. The second respondent has also spoken about he being threatened by the watchmen working for A1 while inspecting the property. The connivance of forest officials in committing this illegal act has resulted in adding A5 and A6 as accused persons.

11. On an overall assessment of the final report and the statements of the witnesses, this Court finds that the prosecution has made out a *prima facie* case. Even though the cause of action for the compliant is an incident that took place on 18.06.2019, it has ultimately led to the discovery of forest lands being encroached after destroying the trees and rocks and virtually mutilating the entire landscape. It is only because of the encroachment in forest lands, the road



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

was able to be laid and there was also a check post created to regulate the access to the property belonging to A2 and A3. The incident that took place on 18.06.2019 was only a consequence of whatever had happened before that from the year 2011 onwards.

12. There are disputed questions of facts and *prima facie* materials are available for the Court below against the accused persons to proceed further with the trial. The stand taken, as if the entire prosecution is attended with malafides, is an issue which should be established before the trial Court. This is not a fit case where this Court can exercise its jurisdiction under Section 482 of CR.P.C. to quash the proceedings. The accused persons must necessarily face trial. The Court below should consider the facts of the case and supporting materials and frame appropriate charges against the accused persons. It is also left open to the Court below to consider on the facts of the case as to whether all the incidents can be brought “within the scope of same transaction” and hence, can be clubbed and tried together or whether they are separate transactions, which has to be tried separately as mandated under Section 218 of Cr.P.C. If this Court has made any observation in this order, it is only based on the *prima facie* materials available and the same will not have any bearing on the trial Court while deciding the case and the trial Court has to decide the case on its own



Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

merits and in accordance with law.

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13. In the result, these criminal original petitions stand dismissed.

08.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
nsa

To

1.The Judicial Magistrate II,
Mettur

2.The Inspector of Police,
Mecheri Police Station,
Salem District.
(Crime No.265 of 2019)

3.The Public Prosecutor,
Madras High Court,
Chennai 600 104..



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Crl.O.P.Nos.12898, 15491 & 15615 of 2020 and 5699 of 2022

N. ANAND VENKATESH, J.

nsa

**Crl.O.P Nos.12898, 15491 &
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