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CrI.O.P.No.19786 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.19786 of 2019

and

CrI.M.P.No.10143 of 2019

- 1.Muthusamy
- 2.Ravi @ Dhandapani
- 3.Muthuvedi
- 4.Madehwaran
- 5.Senthil
- 6.Saravanan
- 7.Kannammal

... Petitioners

Vs.

Mr.Subramani

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C.No.76 of 2018 pending on the file of the learned Judicial Magistrate No.I, Dharmapuri and quash the same.

For Petitioners : Mr.A.Kripakaran

For Respondents : No appearance [served]



Crl.O.P.No.19786 of 2019

ORDER

This Criminal Original Petition is to quash the private complaint filed for the offences under Sections 120(B), 147, 148 and 506 (ii) IPC.

2. It is alleged in the complaint that there is a dispute between the petitioners and the defacto complainant in respect of the land comprised in Survey Nos.672/C and 672/B in Kadakatthur Village. It is further alleged that a civil suit is pending between the parties in respect of the said land. On 14.05.2017, it is alleged that the petitioners' trespassed into the land of the defacto complainant, destroyed the thatched shed and the crops in the said land. It is also alleged that on 20.05.2017, the defacto complainant had lodged a complaint to the police and no action was taken hence he had filed the impugned complaint.

3. The learned counsel for the petitioners would submit that the petitioners are in possession of the disputed land and this is confirmed by the order passed by the learned District Munsif, Dharmapuri in IA.No.302/2016 in OS.No.43/2016 dated 28.04.2016 wherein the Court had granted an order of interim injunction restraining the defacto complainant



and others from interfering with the possession of the 1st petitioner herein.

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4. The learned counsel for the petitioners further submitted that this Court in CRP.PD.No.3036 of 2016 dated 29.09.2026 had recorded the fact that the 1st petitioner is in possession of the disputed property and also passed an order directing the Superintendent of Police, Dharmapuri to extend police protection if a request is made by the 1st petitioner for protection. The learned counsel, therefore, submitted that a civil dispute is sought to be given criminal color and no such incident as alleged had happened.

5. Though notice was served on the respondent, none had entered appearance for the respondent.

6. The allegation in the complaint is that the petitioners had entered into the disputed property on 14.05.2017 and damaged the thatched shed and crops in the said land. However, the fact remains that the 1st petitioner had filed a suit and obtained an order of injunction restraining the defacto



complainant and others from interfering with his possession. That apart, there was an order of this Court in CRP.PD.No.3036 of 2016 dated 29.09.2016 wherein this Court had passed the following orders :-

"2. The trial court granted temporary injunction in I.A.No.302/2016 in OS.No.43 of 2016 by order dated 28.04.2016. The trial court made an observation that the civil and revenue records clearly prove that the petitioner herein is in possession of the suit property.

3. The petitioner filed an application in IA.No.387 of 2016 directing the police to give him protection to enforce the order. The Interlocutory application was dismissed by the trial Court. The order is under challenge in this Civil Revision Petition.

4. The respondent has been taking time under one pretext or the other.

5. There shall be an interim order, directing the Superintendent of Police, Dharmapuri to extend police protection, in case, a request is made by the petitioner for protection pursuant to the order in IA.No.302/2016 in



Crl.O.P.No.19786 of 2019

OS.No.43 of 2016, dated 28.04.2016."

WEB COPY

7. In view of the above, the impugned complaint which is contrary to the findings of the Civil Court and that of this Court is clearly an abuse of process of Court and hence liable to be quashed, accordingly the complaint is quashed.

8. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

13.03.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To
The Judicial Magistrate No.I, Dharmapuri.



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SUNDER MOHAN. J,

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