



Crl.O.P.No.29537 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.03.2023

Pronounced on : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.29537 of 2019

and

Crl.M.P.Nos.15923 and 15924 of 2019

1.C.Somasundaram

2.Ramesh

3.Killyvalavan

4.Mohanavannan

... Petitioners

Vs.

T.Senthilkumar

...Respondent

Prayer: This Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the entire records concerned in C.C.No.102 of 2019 on the file of the District Munsif cum Judicial Magistrate, Perundurai, Erode District and quash the same.

For Petitioners : Mr.C.Prakasam

For Respondent : Mr.N.Manokaran



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ORDER

The petition seeks quashing of the private complaint for the alleged offences under Sections 441, 427, 382 and 506 (ii) I.P.C.

2. It is alleged in the complaint that on 09.11.2018 at about 5.30 p.m, the petitioners trespassed into the land of the complainant and caused damage to the fencing and the trees in the land and attempted to remove it. When the respondent objected to the same, the petitioners went away from the property. It is alleged that once again on 25.11.2018, the petitioners came to the land and attempted to erect a fence annexing the land belonging to the respondent; that the respondent had given a complaint to the Police and that since they did not take any action, they preferred the private complaint.

3.Mr.C.Prakasam, the learned counsel for the petitioners submits that a civil dispute is sought to be given a criminal colour; that the petitioners are the owners of the disputed land; that the petitioners had filed a suit in O.S.No.11 of 2019 on the file of Sub Judge, Perundurai and the said suit is pending. The learned counsel would further submit that in respect of the very same occurrence, the proceedings were initiated by the Revenue Divisional Officer under Section 145 of Cr.P.C.



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The Revenue Divisional Officer had passed an order and the petitioners had preferred an appeal before the District Revenue Officer. The learned Counsel hence submitted that the petitioners had also given a complaint against which the respondent herein and prayed for quashing of the complaint.

4.Mr.N.Manokaran, the learned counsel for the respondent would submit that though there is a civil dispute between the parties, the act of the petitioners constitute the offences alleged. The property in which the occurrence took place is different from the property claimed by the petitioners. In any event, the offences committed by the petitioners of trespass, damage to the trees and theft would not to be obliterated merely because there are civil disputes pending between the parties. Hence, the learned counsel prayed for dismissal of the quash petition.

5.Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

6.This Court finds that in respect of the incident, the Police had referred the matter for the enquiry before the Revenue Divisional Officer for initiating



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proceedings under Section 145 of Cr.P.C. In the said proceedings, the Police has referred to the complaints lodged by both the parties. It appears that the Revenue Divisional Officer had initiated action under Section 145 of Cr.P.C and had passed orders which were against the petitioners. It is also stated that thereafter, the District Revenue Officer on appeal had confirmed the said order. Further, there is a civil dispute pending in respect of the very same property between the parties. Hence, this Court is of the view that since the allegations in the complaint has already been addressed in the proceedings before the learned Executive Magistrate cum Revenue Divisional Officer and considering the fact that there are civil disputes pending between the parties, the impugned proceedings are liable to be quashed.

7.For the above reasons, this Criminal Original Petition stands allowed.

Consequently, the connected Miscellaneous Petitions are closed.

29.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

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To

The District Munsif cum Judicial Magistrate,
Perundurai,
Erode District



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SUNDER MOHAN, J

dk

Pre-delivery order in

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and

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