



WEB COPY



Crl.O.P.No.34305 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

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

Crl.O.P.No.34305 of 2019
and
Crl.M.P.Nos.18987 and 18988 of 2019

1. N.Kothandaraman
2.K.Unnamalai
3.K.Lakshminarayanan
4.K.Rajaraman

...Petitioners

-Vs-

A.Athilakshmi

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the entire records in C.C.No.64 of 2020 on the file of the learned District Munsif cum Judicial Magistrate Court, Vikkiravandi and quash the charge and its proceedings.

(Prayer amended as per order dated 07.07.2023 in Crl.M.P.No.5532 of 2023 in Crl.O.P.No.34305 of 2019)

For Petitioners : Mr.J.Agni Selvaraju

For Respondent : No Appearance



Crl.O.P.No.34305 of 2019

WEB COPY

ORDER

This Criminal Original Petition has been filed calling for the records in C.C.No.64 of 2020 on the file of the learned District Munsif cum Judicial Magistrate Court, Vikkiravandi and to quash the same.

2. Heard the learned counsel for the petitioners and perused the materials available on record.

3. The respondent lodged a complaint alleging that the respondent's father-in-law namely Narayana Naicker settled his properties to the total extent of 1.60 acres bearing Survey No.500, to an extent of 93 cents and in Survey No.4/27, to an extent of 68 cents in favour of the respondent's husband. Thereafter, the respondent's husband was in possession and enjoyment of the above said property. Thereafter, due to family dispute, the respondent's husband filed a suit in O.S.No.31 of 1986 before the District Munsif Court, Villupuram and the same was allowed in favour of the respondent's husband, on 13.11.1996. After that, no appeal has been preferred by the first petitioner. After the demise of the respondent's husband, the respondent was in possession and



Crl.O.P.No.34305 of 2019

enjoyment of the said property. In the meanwhile, the first petitioner settled the above said properties in favour of the petitioners 2 to 4 by way of forged settlement deeds and the same were registered as Settlement Deed Nos.574 to 576 of 2013. On 05.12.2018, all the petitioners along with some known persons jointly came to the respondent's agricultural land and broke the lock of the motor shed and stolen the motor pump and other articles. On the same day, the respondent gave a complaint before the Kanjanur Police Station. However, no action has been taken against them. On 02.01.2019, the respondent was ready to harvest the paddy. At that time, all the petitioners jointly stopped the harvesting and scolded the respondent in filthy language. Thereafter, the respondent gave so many complaints before the higher officials and the same were not considered. Therefore, the respondent was constrained to file a private complaint before the learned District Munsif-cum-Judicial Magistrate, Vikkiravandi.

4. On receipt of the complaint, learned District Munsif-cum-Judicial Magistrate, Vikkiravandi, had taken cognizance for the offences under Sections 294B, 323 and 379 of IPC.



Crl.O.P.No.34305 of 2019

5. The learned counsel for the petitioners submitted that the petitioners are arrayed as A1 to A4. The first petitioner had purchased some properties in the name of his father. However, the first petitioner is in possession and enjoyment of the subject property. Thereafter, the first petitioner's father settled the property by way of settlement deeds and Will to his other legal heirs except the first petitioner, due to family dispute. However, the first petitioner is in physical possession and enjoyment of the same. Hence, the first petitioner's brother filed a suit in O.S.No.21 of 1986 before the District Munsif Court, Villupuram, for declaration and recovery of possession of the subject property as against the first petitioner. It was allowed and however, his brother did not take any steps to recover the subject land. Based on the continuous physical possession from the year 1969, the first petitioner was issued patta, chitta and adangal and all the revenue records were also mutated in his name. He was issued patta in Patta No.354. Thereafter, the first petitioner settled the said property in favour of the petitioners 2 to 4 herein by way of settlements deed dated 10.04.2013 registered vide Document Nos.574 of 2013, 575 of 2013 and 576 of 2013. Thereafter, the petitioners are in physical possession and enjoyment of the subject land. The respondent,



Crl.O.P.No.34305 of 2019

without even challenging the settlement deeds lodged a complaint before the Anti-Land Grabbing Cell, Villupuram, as against the petitioners. On receipt of the same, the Deputy Superintendent of Police and the Inspector of Anti Land Grabbing Cell, Villupuram, conducted a detailed enquiry and closed based on the report submitted Deputy Director of Prosecution, Villupuram dated 13.06.2018. In fact, the respondent was directed to approach the Civil Court for appropriate relief. Even after closing her complaint, the respondent filed a private complaint before the learned District Munsif Cum Judicial Magistrate, Vikkiravandi. Now, the learned Magistrate had taken cognizance under Sections 294B, 323 and 379 IPC.

6. A perusal of the complaint revealed that on 02.01.2019 at about 10.00 a.m, when the respondent was ready to harvest the crops in the subject land, the petitioners trespassed into the said property and harvested the entire agricultural crops. In fact, earlier complaint lodged before the Kanjanur Police Station was registered as C.S.R.No.05 of 2019. The Inspector of Police conducted an enquiry and closed the same as no prima facie case is made out as against the petitioners, since all the



Crl.O.P.No.34305 of 2019

allegations lodged in the complaint are purely civil in nature.

WEB COPY

7. Therefore, the present complaint is nothing but a clear abuse of process of law. In fact, the respondent lodged a complaint not only as against the petitioners, but also as against the Sub Inspector of Police and Inspector of Police, Kanjanur Police Station.

8. Without considering the above, the learned Magistrate had mechanically taken cognizance of the offences under Sections 294B, 323 and 379 IPC. The learned Magistrate, without even examining the nature of the allegations made in the complaint, straight away had taken cognizance. The learned Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.

9. The learned Magistrate failed to examine the allegations levelled as against the accused and straight away taken cognizance.



Crl.O.P.No.34305 of 2019

Therefore, the present impugned complaint is nothing but a clear abuse of process of law and it is liable to be quashed.

10. Accordingly, the proceedings in C.C.No.64 of 2020 on the file of the learned District Munsif cum Judicial Magistrate Court, Vikkiravandi, is hereby quashed. This Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

19.10.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn



WEB COPY



Crl.O.P.No.34305 of 2019

G.K.ILANTHIRAIYAN. J.

mn

To

1. The District Munsif cum Judicial Magistrate Court,
Vikkiravandi.

Crl.O.P.No.34305 of 2019
and
Crl.M.P.Nos.18987 and 18988 of 2019

19.10.2023