



CrI.O.P(MD).No.1692 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 16.03.2023

Delivered On : 05.04.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

CrI.O.P(MD).No.1692 of 2021

and

CrI.M.P.(MD)No.822 of 2021

1.Asarudeen
2.Shahul
3.Mohamed Rafeek
4.Kalil Rahuman
5.Jainulapdeen
6.Uthuman
7.Uthuman
7.Mohamed Sulthan

...Petitioners

Vs

1.State Represented by
The Inspector of Police,
Vilakkuthoon Police Station,
Madurai City.
(In Crime No.904 of 2018)

2.Kani

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records of the FIR in Crime No.904 of 2018 on the file of the respondent no.1 police station and quash the same as illegal as against the petitioners.



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For Petitioners
For 1st Respondent

: Mr.S.M.A.Jinnah
: Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the FIR in Crime No.904 of 2018 on the file of the respondent no.1.

2.The allegation against the petitioners is that when the defacto complainant was measuring the land near Panayur Channel, Thenkarai, as per the orders and directions of this Court, they issued a notice to the encroachers and thereby, on 10.11.2018, the defacto complainant along with corporation workers and Police party went to remove the encroachment in Noor Pallivasal, Thenkarai, Madurai. The Jamath members along with local people refused to remove the encroachment. Again on 24.11.2018 at about 07.00 a.m., when the defacto complainant along with one CTPO Ranganathan, ATPO Indradevi, AC Zonal 3, Revenue Officials went there to remove the encroachments. The petitioners and other people prevented them from doing their work and they damaged the road and threaten them. On the complaint of the defacto complainant, a case in Crime No.904 of 2018 under Sections 147, 148, 341, 353 and 506(ii) r/w. Section 3(1) of TNPPDL Act was registered against the petitioners.



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3.On the side of the petitioners, it is stated that the case is a false one.

The petitioners did not commit any offence. Without any enquiry, the first respondent registered a FIR. The petitioners were elected only in the year 2019 as Jamath members. There was no specific overt act against the petitioners. No such occurrence had taken place on the date and time specified in the FIR. The name of the petitioners was wrongly roped into the case and prayed the FIR against the petitioners to be quashed.

4.On the side of the prosecution, it is stated that there was encroachment in the channel. On the instructions of this Court, the defacto complainant and other officials went to the spot to remove the encroachment in the water body. The petitioners and local people prevented the officials from doing their work and to prevent the defacto complainant and other officials, the petitioners damaged the road.

5.On the side of the petitioners, it is stated that there was a delay in filing the FIR. In the second page of the FIR, it is stated that the complaint was given only on 27.11.2018.

6.On the side of the prosecution, it is stated that in the first page of the FIR, it is clearly stated that the complaint was given on 24.11.2018 and



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that the typographical error that crept on the second page of the FIR which is not fatal.

7.On the side of the petitioners, it is stated that the disputed property is a patta land. The order passed by this Court was only to remove the encroachment in the water body but the defacto complainant and others tried to encroach the patta land and they tried to lay the road in the patta land.

8.It is seen that whether the place of occurrence is patta land of Kalvai, whether the defacto complainant and others removed the encroachment in the Kalvai, whether the petitioners and others prevented the Government Officials from doing their official work all require a detailed trial. Whether the petitioners were involved in any offence can be decided only after the completion of the trial.

9.For the above said reasons, this Criminal Original Petition is **disposed of** with a direction to the trial Court to complete the trial within a



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period of five months from the date of receipt of copy of this order.

Consequently, connected miscellaneous petition is closed.

05.04.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn

To

- 1.The Inspector of Police,
Vilakkuthoon Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R. THARANI,J.

Mrn

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