



Crl.O.P.(MD) No.12529 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.ILANGOVAN

Crl.O.P.(MD) No.12529 of 2023
and Crl.M.P(MD) Nos.9808 and 9809 of 2023

1. Murugesan

2. Santhanakumar

... Petitioners

Vs

1. The Inspector of Police,
District Crime Branch, Karur,
Karur District.

2. Elango

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records relating to the Charge Sheet dated 20.10.2022 filed in CC No.580/2022 on the file of Judicial Magistrate No.II, Karur and quash the same.

For Petitioner : Mr. Nagarajan.V

For Respondents : Mr. M.Vaikkam Karunanithi
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition had been filed to quash the case in CC No.580 of 2022, on the file of Judicial Magistrate No.II, Karur

2.The case of the prosecution is that the defacto complainant lodged a complaint stating that the property comprised in S.No.336, Athur Village about 7.44 acres belongs to his father and sister. His father died in the year 2004. After the death of his father, there was a partition between the legal heirs and they were put into separate possession. In the meantime, one Ramasamy is the father of Murugesan taking advantage on similarity in the name of his grandfather viz., Ramasamy created encumbrance over the property. In the year 2018, the accused Santhanakumar and others threatened him to evict the property and told him that they bring the documents for amicable settlement, but they did not come back. Later, they produced the documents and verification was also made to declare the documents as invalid. He filed a suit in O.S.No.210 of 2008, but the accused persons objected the decree. It was referred to the mediators. Over the issue, the said Santhanakumar threatened the defacto complainant with dire consequences. He also demanded Rs.10 lakhs to remove the encumbrance in the property.



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On the basis of the complaint, the case was registered in Cr.No.14 of 2020 on the file of the first respondent seeking quashment, this petition has been filed by the accused persons 1 and 2.

3.During the course of hearing, the learned counsel for the petitioners submitted that the second petitioner was minor on the date of alleged occurrence and also produced the Transfer Certificate as well as School Leaving Certificate of the second petitioner. On verification of the same, the date of birth of the second petitioner was noted as 05.03.1984. The date of occurrence took place on 08.09.1993. Apparently, the age of the second petitioner is about 9 years. Hence, on the date of alleged occurrence, he was a juvenile. Without verifying the age of the second petitioner, investigation has been completed and final report was also filed by the first respondent. From the *prima facie* of the case, it is seen that the provisions of the Juvenile Justice Care and Protection of Children Act is not properly followed by the investigation officer. On this sole ground, the case against the second petitioner is liable to be allowed.



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4.Further, the learned counsel for the petitioners submitted that the first petitioner is ready to face the trial before the Court below.

5.In view of the above, this petition is dismissed in respect of the first petitioner. However, considering the age of the first petitioner, the personal appearance of the first petitioner alone is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the first petitioner shall be present before the Court at the time of furnishing of copies, framing of charges, questioning under Section 313 Cr.P.C. and at the time of passing Judgment.

6.Accordingly, this petition is partly allowed in respect of the second petitioner. Consequently, connected miscellaneous petitions are closed.

04.12.2023

NCC:Yes/No
Internet:Yes/No
Index:Yes/No
PNM



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To

1. The Judicial Magistrate No.II, Karur

2. The Inspector of Police,
District Crime Branch, Karur,
Karur District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN, J.

PNM

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CrI.O.P.(MD) No.12529 of 2023
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