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Crl.OP.No.20073 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **P. DHANABAL**

Crl.OP.No.20073 of 2022

- 1.Praveena
- 2.M.Thanush Krishnan
- 3.Samikannu
- 4.Jeya
- 5.Devi
- 6.Rakkammal
- 7.Vijayakumari

... Petitioners

Vs.

1. The Inspector of Police,
Valparai Police Station,
Coimbatore District.
Crime No.13 of 2022.

2. R.Madhanagopal

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.20 of 2022 on the file of the District Munsif Cum Judicial Magistrate, Valparai and quash the same as far as the petitioners are concerned.



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For Petitioners : Mr.I.Abrar Mohamed Abdullah

For R1 : M/s.G.V.Kasthuri
Additional Public Prosecutor

For R2 : Mr.Sam Jayaraj

ORDER

This Criminal Original Petition has been filed by the petitioners to quash the proceedings in CC.No.20 of 2022 on the file of District Munsif cum Judicial Magistrate, Valparai.

2. The prosecution case is that the defacto complainant is the owner of the M/s.KGR Estate, Kurangumudi, Valparai. On 10.01.2022, as per the Court order, when the defacto complainant went to do the work, the accused 1 to 7 formed an unlawful assembly and prevented the defacto complainant from entering the estate. Vinodhkumar, who was in charge of the estate wanted the labourers to do the work. All the workers were abused in obscene language and also caused criminal intimidation. Further, A1 to A3 stolen the tea leaves and sold them to A8, causing a loss to the tune of Rs.74 lakhs. Earlier, the defacto complainant had informed A8 on 04.12.2021 about a family dispute between him and A1 to A3,



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advising not to purchase any tea leaves from them. Despite this, A8 purchased the tea leaves from A1 to A3. Therefore, the defacto complainant lodged a complaint with the first respondent police, who registered the case in Crime No.13 of 2022. Subsequently, they investigated the case and filed the final report and the final report was taken on file by the learned District Munsif cum Judicial Magistrate, Valparai in C.C.No.20 of 2022, now the said order is challenged through this quash petition.

3. The learned counsel appearing for the petitioners would contended that the first petitioner is the wife of second respondent and the second petitioner is the son of the second respondent, petitioners 3 to 7 are the employees of the second petitioner's tea estate. In fact, there is a dispute between the parties in respect of the disputed property and already the Arbitration award was passed on 27.07.1989. As per the Award, the properties of Gopalsamy Mudaliyar and his sons G.Radhakrishnan, Jayaraman and his grandsons Raghunathan and second respondent were earmarked. Thereafter, Jayaraman approached this Court in A.O.P.No.829 of 1991 and CRP.No.2184 of 1991 and a

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compromise decree was arrived, thereafter entire property of M/s.Sri Ram estate were allotted to Gopalsamy Mudaliyar and his Grandson G.Radhakrishnan, R.Ragunathan and R.Madhanagopal and they constituted a joint family firm, but Gopalswamy Mudaliyar continued to enjoy the property. As per the decree in O.S.No.13 of 2015, the property situated in Anaimalai Hills (Kundrugai), Valparai Taluk in S.F.No.12/6A1A1B with an extent of 70.4 acres were allotted to the joint family of Madhanagopal and his children consisting of second respondent, second petitioner and his sister are in joint possession and enjoyment of the property as co-sharers. Out of joint family income in S.F.No.23/A1B with an extent of 1.69 acres was purchased in the name of the second respondent.

4. The property situated in S.F.No.31/14/3 and S.F.No.31/14/2 with an extent of 35 cents is also a joint family asset, and the second respondent's brother and mother have released their share in favour of the second respondent through a Release Deed dated 15.04.2015. Further, the second respondent sold a part of entire joint family property for an extent of 14 acres and retained the property situated in Anaimalai Hills in

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S.F.No.12/6A1A1B. In the said joint family property, the children are entitled to 2/3 share, and the father of the second respondent is entitled to 1/3 share.

5. The second respondent has become sick and is suffering from liver cirrhosis. Due to this ailment, he is psychologically affected, and is undergoing psychiatric treatment. S.V.Balachander, a distant relative of the second respondent, has taken advantage of the present situation, and is now misguiding the second respondent. At the instigation of said Balachander, the second respondent is attempting to alienate the joint family property. Thereafter, the second petitioner and his sister filed a suit in O.S.No.624 of 2020 on the file of District Court, Coimbatore for partition. The first petitioner was authorised in the year 2014 and 2018 to run the tea estate and other activities, and she is still continuing to do so. Since there is a civil suit pending, at the instigation of the Balachander, the second respondent tried to disrupt the entire activities on the tea estate by preventing the tea estate workers by initiating false litigations, resulting in multiple FIRs have been registered. Therefore, the second respondent lodged a false complaint, turning the civil dispute into



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a criminal colour. The first respondent failed to investigate the case in the appropriate manner and filed the final report without any basis. There are no materials to constitute the offences under Sections 147, 341, 294(b), 379, 506(i), 120B, 414 of IPC. Therefore, the pending proceedings are liable to be quashed.

6. The learned Government Advocate appearing for the first respondent would content that the defacto complainant is the husband of the first petitioner and father of the second petitioner and the other petitioners are labourers working in the Tea estate. There is a civil dispute pending between the parties. While so, the second respondent had given the complaint before the first respondent police, based on which, they registered a case in Crime No.13 of 2022 for the offence under Sections 147, 341, 294(b), 379, 506(i), 120B, 414 of IPC and thereafter they conducted the investigation. As per the investigation, there is prima facie material available, and they filed the final report. Based on the final report, the District Munsif cum Judicial Magistrate, Valpari, has taken cognizance and therefore the petitioner has to face the trial, and the present petition is liable to be dismissed.



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7. The learned counsel appearing for the second respondent would contend that the second respondent is the owner of the property. The second respondent has filed a suit for partition and the same is pending. There is a dispute pending between the second respondent and the first and second petitioners. They interfered with the possession and enjoyment of the second respondent thereby, he gave a complaint before the Valpari Police Station. Thereafter, an enquiry was conducted under Section 107 of Cr.P.C by the Sub Collector, Pollachi. Thereafter, a petition was filed before the Hon'ble High Court, which directed registration of a case against the petitioner. Even after the direction given by the High Court, 1st and 2nd petitioners disturbed the possession of the 2nd respondent. They sold the tea leaves to the 8th petitioner and also used abused obscene language and waylaid the defacto complainant, caused criminal intimidation. Therefore, a complaint was lodged before the first respondent, who registered an FIR, and thereafter, investigation was completed and a final report was filed. Based on the final report, the trial court has also taken the case on file in CC.No.20/2024 and therefore, the trial court had satisfied that prima facie materials are



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available against the petitioners and taken cognizance and now the petitioners only to delay the proceedings, filed this petition. Hence, the petition is liable to be dismissed.

8. Heard both sides and perused the materials available on records.

9. It is the admitted fact that the first and second petitioners are none other than the wife and the son of the second respondent who is the defacto complainant herein, and there is a civil dispute pending before the Court in respect of the disputed property and a partition suit is pending, and also it is the admitted fact that the second respondent had already filed a complaint against the 1st and 2nd petitioners under Section 107 of Cr.P.C, proceedings were also initiated before the concerned authorities. While so, the second petitioner had filed a complaint against the petitioners, alleging that on 10.01.2022 at about 10 a.m, when he went to KG tea estate, petitioners 1 to 7 unlawfully assembled waylaid them from entering into the estate, and abused obscene words and caused criminal intimidation. A1 to A3 have sold the tea leaves to A8 without the knowledge of the second respondent. Therefore, an FIR has been



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registered and the first respondent also conducted the investigation. As per the investigation, he filed the final report under Sections 147, 341, 294(b), 379, 506(i), 120B, 414 of IPC.

10. According to the prosecution case, A1 to A7 have formed an unlawful assembly and thereby filed a charge sheet under Section 147 of IPC. As far as 147 is concerned, there is no materials that what is the common object to commit the illegal act. Mere assemble of 5 or more persons is not sufficient to constitute the offence of unlawful assembly, and the object of the assembly shall be unlawful. Moreover there are no any allegations to attract the case of rioting and no materials to show that the unlawful assembly with common object used force or violence. Therefore, there is no ingredients are present to constitute the offence for the Section 147 of IPC. There is no reference what is the common object to commit the illegal act and the petitioners formed an unlawful assembly.

11. As far as 341, 294(b) and 506(i) of IPC are concerned, there is no specific allegations and materials as to who waylaid and wrongfully



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restrained the witnesses from entering the tea estate, no specific allegation about which accused used the particular obscene word, no reference as to whether the alleged obscene words are used in a public place or not and also there is no specific words mentioned to attract the offence under Section 506(i) of IPC. There is no materials that which accused caused criminal intimidation and that the complainant got fear due to such criminal intimidation. All the allegations are vague, bold, general and ombiguous allegations, with no specific details. As far as Section 379 of IPC is concerned, it is an admitted fact that there is a dispute pending between the parties with regard to share of the property and there is no dispute that the first petitioner was managing the tea estate and disbursing salaries to the labourers. There is no specific date on which the petitioners A1 to A3 have sold the tea leaves to A8 and what is the quantity and how they arrived Rs 74 lakhs and no particulars about the materials and the amount. In the complaint and charge sheet vaguely, it is mentioned that there was a loss of 74 lakhs due to the act of the accused. Since there is a dispute pending between the parties in respect of Shares and Administration of Estate, this complaint has been lodged on vague, general and omnibus allegations. The family dispute has been



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converted into criminal dispute by involving the estate labourers.

Therefore, the said pending properties mentioned are abuse of process of law.

12. In view of the above discussions, this Court is of the opinion that there are no materials to constitute the offence under Sections 147, 341, 294(b), 379, 506(i), 120B, 414 of IPC and thereby the pending proceedings are liable to be quashed.

13. In the result, this petition is allowed and the pending proceedings in C.C.No.20 of 2022 on the file of the District Munsif Cum Judicial Magistrate, Valparai is quashed. No costs.

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Index : Yes/No
Speaking/Non speaking order

drl

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2. The Inspector of Police,
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3. The Public Prosecutor,
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P.DHANABAL. J,

drl

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