



Crl.O.P.No.23312 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.23312 of 2022
and
Crl.M.P.Nos.14897 & 14898 of 2022

1.N.Subramani
2.Vimala Devi
3.Sutharshan Raj
4.Janani

... Petitioners

Versus

1.The State rep. by
Inspector of Police,
Perundurai Police Station,
Erode.

2.A.T.Senthil Kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to call for the records relating to S.T.C.No.312 of 2022, pending on the file of the Judicial Magistrate, Perundurai and quash the same.

For Petitioners : Mr.G.Sriram

For R1 : Mr.S.Vinoth Kumar



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Government Advocate (Crl.Side)

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.312 of 2022, pending on the file of the Judicial Magistrate, Perundurai as against the petitioners, in which cognizance was taken for the offences under Sections 294(b), 347 and 506(i) of IPC.

2. The case of the prosecution is that the father of the 1st petitioner is the elder brother of the father of the defacto complainant, and the defacto complainant and his father have been cultivating the land in R.S.No.711/1,2. Further, the tenements, electricity connections and tank situate in R.S.No.711/1 are in the ownership and possession of the defacto complainant's father. There is a coconut grove in R.S.No.711/2. The 1st petitioner prepared a false document to claim ownership over R.S.No.711 / 1, which he created on 10.11.2021. Regarding this, a complaint was given to the Superintendent of Police who transferred the complaint to the District Anti-Land Grabbing Cell. After enquiry, the complaint was closed after obtaining an undertaking, and the father of the defacto complainant sent legal notices to the District Collector, Thasildhar, Village Administrative Officer, and also to the two sisters of the father of the 1st petitioner. On 20.12.2021 at about 9.00



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am., when the defacto complainant and his farm hands were cultivating in the fields without a licence, they were abused by the defacto complainant and his labourers, with dire consequences.

3. The learned counsel for the petitioners submitted that the petitioners are in no way connected with the alleged offence committed by the defacto complainant. He also submitted that the prosecution is entirely borne out of malice and has been initiated not for any of the offences mentioned in the final report but to strengthen the illegal claim of the defacto complainant over the land in R.S.No.711/1, which rightfully belongs to the 1st petitioner. Only in respect of the Civil dispute, the defacto complainant has maliciously launched Criminal proceedings, omitting to state the fact of the mortgage transaction as that alone would reveal that he enjoys neither title nor possession over the land. The defacto complainant has already filed a Civil Suit in O.S.No.3 of 2022 before the learned District Judge, Erode. He also submitted that the 1st petitioner has constructed a concrete house in the said survey number and is cultivating the remaining portion of the land. In such circumstance, even assuming the allegation of wrongful restraint to be true, the conduct of the petitioners would not unlawful and would be covered by the exception to S.339 as the petitioners, believing in good faith that the land



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belonged to them, obstructed the tractor of the defacto complainant from entering their fields. He also submitted that the final report and other materials do not disclose any ingredients against the petitioners; hence, he prayed to quash the proceedings against them.

4. On considering the submissions made by both side counsels, it reveals that the defacto complainant has a mortgaged deed in respect of the property in R.S.No.711/1, and there was a mortgaged loan with the 1st petitioner. Further, he enjoyed the alleged property and also constructed the concrete house. The defacto complainant also filed a suit in O.S.No.3 of 2022 before the learned District Judge, Erode, for recovery of money in respect of same property in R.S.No.711/1. All the facts reveal that already there is a dispute pending in respect of R.S.No.711/1 between the parties, and it is Civil in nature, so there are no material ingredients on the side of the defacto complainant on that day the petitioners trespassed and harassed the defacto complainant by abusing and threatening them in the presence of the public. Already a Civil Suit is pending between the parties. To give the criminal colour, the complaint has been lodged. I do not find any material evidence to quash the proceedings against the petitioners. Hence, this Court is not inclined to quash the proceeding in S.T.C.No.312 of 2022, pending on the



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file of the Judicial Magistrate, Perundurai. Liberty is granted to the petitioners to work out their remedy before the Civil Court.

5. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous petitions are closed.

20.02.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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To

1.The Inspector of Police,
Perundurai Police Station,
Erode.

2.The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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