



CRL OP(MD). No.2593 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 19.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.2593 of 2022
and Crl.M.P.Nos.1940 and 1941 of 2022**

1. Gurusamy
2. Sathishkumar
3. Kalesh Kumar
4. Suresh Kumar
5. Dinesh Kumar
6. Sankar Ganesh
7. Insuraj
8. Sundharraj
9. Suresh Kumar

... Petitioners

Vs

1. State, represented by
The Inspector of Police,
Sivagiri Police Station,
Tenkasi District,
(Crime No.170/2020).



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2. Karpagam, M/a.53 years,
W/o. Muugesh,
South Street,
Duraismiyapuram Village,
Sivagiri Taluk,
Tenkasi District.

... Respondents

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records to the C.C. No.5 of 2021 on the file of the Judicial Magistrate, Sivagiri, Tenkasi District to quash the same as for petitioner/Accused 1 to 9.

For Petitioners : M/s. S. Kasi Rajan

For Respondents : M/s. P. Kottaichamy for R1
Government Advocate(crl.side)

M/s. G. Thalaimutharasu for R2

ORDER

This Criminal Original Petition has been filed to quash the case in CC No.5/2021 on the file of the Judicial Magistrate, Sivagiri, Tenkasi District against the petitioners/A1 to A9.

2. The case of the prosecution is that there was a dispute between the petitioners and the 2nd respondent with regard to a village property. It is alleged that the petitioners have questioned the de-facto complainant



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as to the construction of the building in the Government land, due to which, it is alleged that the petitioners have trespassed into the landed property and said to have abused the 2nd respondent and hence, the complaint. On completion of investigation, chargesheet has been filed before the jurisdictional Court, for quashing which, the petitioners are before this Court.

3. The learned counsel for the petitioners would submit that the petitioners have nothing to do with the alleged offences as alleged in the complaint and they have been falsely implicated in this case for no fault on them. He would further submit that the land in question belongs to the Government and since the 2nd respondent has encroached upon the said land and made a construction, the same was rightly questioned by the petitioners as village people on behalf of the village. However, in order to conceal the Government property was encroached by the 2nd respondent and in order to escape from the clutches of law, the 2nd respondent has given a frivolous complaint against the petitioners, which is non-est in the eye of law. He would further submit that in order to rope the petitioners under Sections 147 and 294(b) IPC and Section 4 of



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TNPHW Act, the ingredients have to be satisfied. However, in the present case, when there is only a quarrel ensued and neither assault nor the offences were committed by the petitioners, the registration of the present case and facing the charges are baseless and hence, prays for quashment of the case.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that since there are materials available against the petitioners, at the threshold the chargesheet cannot be quashed and since the offences are triable in nature, the petitioners have to face the trial and hence, prays for dismissal.

5.The learned counsel for the 2nd respondent/de-facto complainant would submit that there are ingredients with regard to the offences under Section 147 and 294(b) IPC and Section 4 of TNPHW Act to rope the petitioners, since the petitioners have formed an unlawful assembly in order to use the force thereof and entered into the landed property of the 2nd respondent and abused the de-facto complainant, thereby committed the offences and hence, the necessary ingredients are satisfied and hence,



prays for dismissal.

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6.This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

7.The foremost contention of the petitioners is that the land in question belongs to the Government, wherein, the de-facto complainant has encroached upon and constructed a building, without any valid title and patta. Hence, a complaint has been given before the District Collector relating to the title of the property in question. While the District Collector seized of the matter, pending the civil dispute with regard to the property in question, the complaint has been given as if the petitioners by forming an unlawful assembly by using force, entered into the property of the 2nd respondent and abused her. However, there are no materials whatsoever produced in order to prove the said act, when it is the specific case of the petitioners that on behalf of the village people, as the petitioners and the 2nd respondent belong to same village, in order to retrieve the Government/village property, the petitioners went and questioned. However, without waiting for the orders of the District



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Collector, the initiation of criminal proceedings is nothing but screening the act of the 2nd respondent.

8. In order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused persons annoyed others. In this case, it is alleged that the petitioners uttered abusive words against the defacto complainant, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC. Likewise, for attracting the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 also, there are no materials whatsoever available to prove that the petitioners have harassed the second respondent/ defacto complainant. For all these reasons, proceedings in C.C.No.5 of 2021 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District is liable to be quashed.

9. Accordingly, the criminal original petition is allowed and the proceedings in C.C.No.5 of 2021 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District is hereby quashed against the



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petitioners alone. Consequently connected Miscellaneous Petitions are closed.

19.02.2024

NCC : Yes/No
Index : Yes/No

RR

TO

The Inspector of Police,
Sivagiri Police Station,
Tenkasi District.



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M.DHANDAPANI. J

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