



Crl.O.P.(MD)No.14334 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.14334 of 2020 &
Crl.M.P.(MD)Nos.6689 & 6691 of 2020

- 1.Thangamani
- 2.Latha
- 3.Ravi
- 4.Naveenkumar
- 5.Macha Pandiyan @ Petchai Pandiyan
- 6.Periyakaruppan
- 7.Singamani @ Karuppayaee

...Petitioners

vs.

- 1.State rep by.
The Inspector of Police,
Singamanoor Police Station,
Theni District.
(Crime No.231 of 2019)

- 2.Palaniammal

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.15 of 2020 on the file of the Judicial Magistrate, Uthamapalayam, Theni and quash the same.

For Petitioners

: Mr.B.Jameel Arasu



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For Respondents

: Mr.S.Manikandan
Government Advocate (Criminal Side)
for R1
Mr.R.Karunanidhi for R2

ORDER

Seeking to quash the final report in C.C.No.15 of 2020 on the file of the Judicial Magistrate, Uthamapalayam, Theni, the present Criminal Original Petition is filed.

2. The petitioners / accused in C.C.No.15 of 2020 are closely related to each other. The defacto complainant, Palaniammal, owns a property in S.No.613/2C and 613/2A of Markeyanthottai Village. The first petitioner / A1 also owns a property adjacent to the said property. According to the prosecution, there is a dispute between the petitioners 1 to 4 (A1 to A4) on one hand and the defacto complainant on the other with regard to the said property, on account of which, on 22.02.2019, at about 11.00 a.m., the accused formed into an unlawful assembly and armed with deadly weapons like sickle and spade, trespassed into the property belonging to Palaniammal, damaged the crops, pipeline, bore



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well and other items worth Rs.2,00,000/- and also threatened Palaniammal and others with dire consequences. Palaniammal lodged a complaint with the Inspector of Police, Singamanoor Police Station, Theni and the same was registered as FIR in Crime No.231 of 2019. After concluding investigation, a final report was laid in C.C.No.15 of 2020 before the Judicial Magistrate, Uthamapalayam, Theni.

3. The contentions of Mr.B.Jameel Arasu, learned counsel appearing for the petitioner are:-

(i) The properties in S.No.613/2C and S.No.613/2A of Markeyanthottai Village, measuring 1 acre and 87 cents, were purchased by Vellaichamy Thevar through a registered sale deed.

(ii) After the death of Vellaichamy Thevar, his two sons partitioned the said property into two equal shares and accordingly 93.5 cents fell to the share of Sadamaya Thevar.

(iii) The petitioners are the legal heirs of Sadamaya Thevar. After the death of Sadamaya Thevar, there was a partition in their family,



in which the first and second petitioners were allotted 21 cents and the 3rd petitioner and Malarmannan were each allotted 21 cents.

(iv) Even after the partition, the family possessed 25 cents of vacant land and the same was not allotted to anyone in the family.

(v) The petitioners 1 to 3 sold their respective shares in favour of one Pushpam through registered sale deeds. However, Malarmannan did not sell his land measuring 21 cents.

(vi) Taking advantage of the said fact, Pushpam and her henchman in collusion with Palaniammal, the defacto complainant obtained patta and other revenue records suppressing the material facts by including the 21 cents of land belonging to Malarmannan.

(vii) The petitioners after coming to know of the same, lodged a criminal complaint before the District Crime Branch, Theni against the defacto complainant Palaniammal, Pushpam and others for the alleged offences punishable under Sections 420, 465, 468, 471 and 109 IPC and the same was registered as FIR in Crime No.45 of 2018.

(viii) Though the accused in Crime No.45/2018 filed a petition under Section 482 Cr.P.C. in CrI.O.P.(MD)No.4577 of 2019 to quash the



FIR, the said petition was dismissed by this Court and this Court also directed the police to expedite the investigation.

(ix) In the meanwhile, one of the accused in Crime No.45 of 2018 namely Malarvizhi and the defacto complainant Palaniammal filed Civil Suits in O.S.No.118 of 2018 and O.S.No.119 of 2018 before the District Munsif Court, Uthamapalayam, Theni respectively against Malarmannan and both the suits were dismissed.

(x) A civil dispute has been given a criminal colour by the second respondent.

(xi) In the FIR in Crime No.213 of 2019, date, time and place of occurrence has not been clearly indicated. However, the Police had filed a final report against the present petitioners.

(xii) The first petitioner who is the mother of the petitioners 2, 3 and Malarmannan, is aged more than 70 years and she never trespassed into the property belonging to Palaniammal.

He therefore prayed for quashing the final report in C.C.No.15 of 2020 on the file of the Judicial Magistrate, Uthamapalayam, Theni.



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4. Per contra, Mr.R.Karunanidhi, learned counsel appearing for the second respondent / defacto complainant would contend that the present petitioners had not only trespassed into the property of the defacto complainant, but also damaged the crops cultivated by the latter. It is also his submission that the Police after conducting proper investigation had laid a final report and therefore there is no valid ground to quash the final report in C.C.No.15 of 2020 on the file of the Judicial Magistrate, Uthamapalayam, Theni.

5. At the outset, it may be observed that there is a civil dispute between the petitioners and the defacto complainant. A perusal of 161(3) Cr.P.C. statement of the witnesses *prima facie* shows that the present petitioners have formed into an unlawful assembly and armed with deadly weapons, trespassed into the property of the defacto complainant Palaniammal on 22.02.2019, at about 11.00 a.m., and damaged the crops and other properties in the land. They have also threatened the defacto complainant and others with dire consequences. The Inspector of Police had investigated the case and recorded the statements of witnesses in



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accordance with law and the Judicial Magistrate, Uthamapalayam, Theni had also taken cognizance of the offence. At this stage, there is no material to conclude that a false case has been foisted against the present petitioners. Merely because the age of the first petitioner is 70 years, the final report against her cannot be quashed especially when there are specific overt act against her which *prima facie* shows her complicity in the offence. The truth or otherwise of the allegations made by the defacto complainant and the present petitioners can be gone into only during the course of trial and therefore, I do not see any reason to quash the final report.

6. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, the connected Miscellaneous Petitions are closed.

08.02.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To
WEB COPY

- 1.The Judicial Magistrate,
Uthamapalayam, Theni
2. The Inspector of Police,
Singamanoor Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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