



Crl.O.P(MD).No.14765 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.14765 of 2021 and
Crl.M.P(MD).No.7842 of 2021

S.Jeganathan

... Petitioner

Vs.

1.The Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Thirumangalam,
Madurai District.

2.State rep. by the
The Inspector of Police,
Madurai City.
(Crime No.639 of 2019)

3.Ayanganar

... Respondents

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records relating to the impugned proceedings in Na.Ka.No. 3391/2020/A1, dated 09.07.2021 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.Surinarayanan

For Respondents 1 &2 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For 3rd respondent : No appearance



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ORDER

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This Criminal Original Petition has been filed to call for the records relating to the impugned proceedings in Na.Ka.No. 3391/2020/A1, dated 09.07.2021 on the file of the 1st respondent and quash the same.

2. The case of the prosecution is that the property in question in the impugned notice is subject matter of the suit in O.S.No.146 of 2015 on the file of the District Munsif Court, Thirumangalam, which was filed by the petitioner's mother against the 3rd respondent and other and at the same time, the 3rd respondent has also filed a civil suit in O.S.No.91 of 2015 on the file of the District Munsif Court, Thirumangalam against the petitioner and his parents. The suit filed by the petitioner's mother was decreed ex parte and thereafter, the 3rd respondent filed the set aside petition in the said suit and the same is pending for adjudication. While so, the first respondent has issued notice under Section 145 Cr.P.C., to the petitioner, in which, the 1st respondent directed the petitioner and another to produce the documents on 22.07.2021 to determine the right over the property. Challenging the same, the petitioner herein has filed the present Criminal Original Petition.



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3. The learned counsel appearing for the petitioner submitted that since the issues relating to pending civil suit, as per the Judgment of the Hon'ble Supreme Court reported in ***AIR 1988 Page No.1973 in the case of Jhummal Alias Devandas Vs. State of Madhyapradesh***, the 1st respondent has no jurisdiction to determine the issue of rights between the parties under Section 145 Cr.P.C., and prays for allowing this petition.

4. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that based on the First Information Report registered in Crime No.639 of 2019 notice has been issued to the petitioner, but, the said Crime Number is relating to some other case. Further, the learned Additional Public Prosecutor is not able to the furnish the details of the present case.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and perused the materials available on record.

6. Considering the facts and circumstances of the case and



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also considering the fact that the civil suits are pending before the District Munsif Court, Thirumangalam, issuance of impugned notice under Section 145 Cr.P.C., is not maintainable at this stage. Hence, this Court is inclined to allow this Petition.

7. Accordingly, this Criminal Original Petition is allowed and the impugned proceedings in Na.Ka.No.3391/2020/A1, dated 09.07.2021 pending on the file of the 1st respondent is hereby quashed. Consequently, the connected Miscellaneous Petition is closed.

04.04.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

- 1.The Sub Divisional Executive Magistrate and
Revenue Divisional Officer,
Thirumangalam,
Madurai District.
2. The Inspector of Police,
Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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A.A.NAKKIRAN, J.

Trp

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