



Crl.O.P.(MD) No.15107 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.15107 of 2021

and

Crl.M.P.(MD) No.8079 of 2021

1.G.Kannappan

2.S.Mahendran

... Petitioners

Vs.

1.State represented by
Inspector of Police,
Highways Police Station,
Theni District.
(Crime No.132 of 2018)

2.Vinoth Kumar

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the Charge Sheet in C.C.No.103 of 2019 on the file of the Judicial Magistrate Court, Uthamapalayam and quash the same as illegal as against the petitioners.

For Petitioners : Mr.S.Rajasekar

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

For R2 : No appearance



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ORDER

WEB COPY Seeking to quash the final report in C.C.No.103 of 2019 on the file of the Judicial Magistrate Court, Uthamapalayam, the present Criminal Original Petition is filed by the accused.

2. The case of the prosecution is that on 22.12.2018, at about 2.00 p.m., both the petitioners/accused cut the pipeline running through a common pathway in S.No.48 of Siluvaikovil Village, Mehamalai. Based on the complaint given by the second respondent/*de facto* complainant, the Sub-Inspector of Police, Highways Police Station, Theni registered F.I.R. in Crime No.132/2018 for the offences punishable under Sections 447 & 427 of IPC. After conducting investigation, the Sub-Inspector of Police filed a final report before the Judicial Magistrate Court, Uthamapalayam in C.C.No.103 of 2019 for the aforesaid offences.

3. Mr.S.Rajasekar, learned counsel for the petitioners/accused would contend that though the pathway is a common pathway, the second respondent/*de facto* complainant had laid a pipeline in the said pathway and therefore, the same was removed by the present petitioners/accused and he, therefore, prayed for quashing the final report.



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WEB COPY 4. Per contra, Mr.K.Sanjai Gandhi, learned Government Advocate (Crl. Side) appearing for the first respondent police, on instructions, would contend that there is a dispute between the present petitioners/accused and the second respondent/*de facto* complainant over the said pathway and a civil suit is also pending in this regard. He would further contend that the present petitioners/accused admittedly had removed the pipeline running through the common pathway and there are no good grounds to quash the final report filed by the police.

5. The arguments submitted by the learned counsel for the petitioners/accused would clearly go to show that the pathway is a common pathway and the petitioners/accused had removed the pipeline running through the said common pathway despite the pendency of the civil suit over the pathway. If the second respondent/*de facto* complainant had laid a pipeline in the common pathway, the petitioners/accused should have approached the concerned police by way of filing a complaint and they cannot take the law into their own hands and remove the pipeline.



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6. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed.

14.02.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To

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



WEB COPY



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R.HEMALATHA, J.

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