



Crl.O.P(MD)No.15264 of 2021

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 07.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Crl.O.P(MD)No.15264 of 2021**  
**and Crl.MP(MD) No.8187 of 2021**

N.R.N. Pandiyan

... Petitioner

Vs

1. The Inspector of Police,  
Thuvankurichy Police Station,  
Thiruchirappalli District. Cr.No. 489 of 2020.

2. NR.Thiyagarajan

... Respondents

**PRAYER:** Criminal Original petition has been filed under Section 482 of Cr.P.C, to call for the records in pursuant to the CC No. 2/2021 on the file of the Judicial Magistrate Court, Manapparai and quash the same.

For Petitioner : Mr. M.Karthikeyvenkitachalapathy

For Respondents :Mr.A.Albert James (R1)  
Government Advocate (Crl.Side)

Mr.S.Prabhakar (R2)



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## **ORDER**

This Criminal Original Petition has been filed to quash petition has been filed to quash the proceedings in CC No.2 of 2021 pending on the file of Judicial Magistrate Court, Manapparai.

2.The second respondent filed a complaint before the first respondent to the effect that the A1 along with other accused persons trespassed into the subject property and started cutting down the Trees, thereby, 80 Coconut Trees were cut down. When the same was questioned, the second respondent was threatened with dire consequences and he was criminally intimidated. Based on his complaint, a FIR came to be registered in Crime No.489 of 2020 by the first respondent. On completion of investigation, the final report came to be filed before the Judicial Magistrate, Manapparai, as against seven accused persons for the offence under Sections 147, 148, 447, 506(2) and 379 IPC.



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3.The petitioner, who was arrayed as A1 has filed the present quash petition on the ground that none of the offence is made out against the petitioner.

4.Heard, the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.S.Prabhakaran, learned counsel appearing for the second respondent.

5.On carefully considering the submissions made on either side and the materials available on record, it is seen that the family originally owned 60 acres of land with Trees, particularly, Coconut Trees. There are totally three brothers and two sisters, who are entitled for share in the property. One of the co-owner, namely Arumugam died and his wife sold an extent of 15 acres to the petitioner / A1, through a registered sale deed, dated 26.05.2005, registered as Document No. 878/2005. There is no dispute with regard to the fact that the property has not been partitioned by metes and bounds.



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6.The entire dispute arose, since the petitioner/A1 in his capacity as a co-owner, entered into the land with some of his men and started cutting down the dried Trees and was collecting the wooden logs and it was loaded in the vehicle. This was questioned by the second respondent, which resulted in wordy quarrel and the allegation that the second respondent was criminally intimidated by the petitioner.

7.The main offence that has been put against the petitioner/A1 is the offence of criminal trespass and theft. A1 is admittedly one of the co-owner of the property, since he has purchased an extent of 15 acres from one of the co-owners Arumugam. Hence, petitioner/A1 is not a outsider or a third party and being a co-owner, he has entered the property and has cut down the dried Coconut Trees and collected the wooden logs.

8.It is true that A1 had earlier filed a suit for bare injuntion and it was dismissed and further confirmed in the appeal. Obviously, a suit can



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never be maintained by a co-owner against the other co-owners seeking for the relief of permanent injunction, since every co-owner is deemed to be in occupation of every portion of property. Therefore, dismissal of the suit for injunction filed by A1, by itself cannot go against the right and interest of A1 in his capacity as a co-owner.

9.Continuing with the above stream of thought, the co-owner cannot commit trespass into his own property and cannot commit theft by cutting down Trees, which also forms part of property. To constitute an offence of criminal trespass and theft, the petitioner must be a rank outsider, who has entered into the property without any right or title. However, the petitioner is a co-owner of the property, therefore, he is deemed to own every portion of the property to the extent of his share. Consequently, A1 cannot trespass into his own property and removal of Trees from the property cannot be construed as a theft.



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10.Insofar as, the offence of criminal intimidation u/s.506(2) IPC, mere oral threat will not constitute an offence of criminal intimidation and the law on the issue is too well settled.

11.The petitioner has entered the property along with his men and therefore, the final report has been filed for the offence under Sections 147,148 IPC. If the main offence itself is not established, the offence under Sections 147 and 148 IPC must also fail.

12.In the light of the above discussions, it is clear that even if the final report is taken as it is, no offence has been made out against the petitioner or any of the other accused persons.

13.There is yet another reason as to why final report that has been taken cognizance by the Court below requires the interference of this Court. The Court below has not applied its mind on the allegations made in the final report and the materials that were filed in support of the final report. A



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rubber-stamp cognizance has been taken.

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14.This Court has repeatedly deprecated the practice of taking rubber-stamp cognizance without application of mind. Useful reference can be made to the judgment of this Court in ***Shanmugam and others Vs.Inspector of Police, Ariyalur Police Station, Ariyalur and others (2019 (03) MLJ 339)***.

14.In the light of the above discussions, proceedings in C.C.2 of 2021 on the file of the Judicial Magistrate Court, Manapparai is quashed in its entirety and accordingly, this Criminal Original Petition stands allowed.

15.It is brought to the notice of this Court that while the petitioner was granted anticipatory bail, he was directed to deposit a sum of Rs.1 lakh as a condition in Cr.No.489 of 2020 on the file of Judicial Magistrate, Manapparai. Since the proceedings has been quashed, it is left open to the petitioner to file a memo before the concerned Court seeking for the



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withdrawal of the amount. Such memo shall be entertained by the learned Judicial Magistrate and the petitioner shall be permitted to withdraw the said amount.

16. Consequently, connected miscellaneous petition is closed.

**07.11.2024**

Internet :Yes  
Index :Yes/No  
NCC :Yes/No  
PNM

To

1. The Judicial Magistrate, Manapparai
2. The Inspector of Police,  
Thuvankurichy Police Station,  
Thiruchirapalli District. Cr.No. 489 of 2020.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**N.ANAND VENKATESH, J.**

PNM

**ORDER IN**  
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