



Crl.O.P(MD)No.15415 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P(MD)No.15415 of 2021
and Crl.MP(MD) Nos. 8281 & 8282 of 2021

T.Latha

... Petitioner

Vs

1. The Inspector of Police,
Mayilandumparai Police Station,
Theni District.(Crime No.35 of 2021).

2. C.Murugan

... Respondents/Complainants

PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned Charge Sheet in CC No.98 of 2021 on the file of learned Judicial Magistrate Court, Andipatti and quash the same as illegal.

For Petitioner : Mr. G.Thalaimutharasu

For Respondents :Mr.B.Thanga Aravindh (R1)
Government Advocate (Crl.Side)
No Appearance (R2)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.98 of 2021 pending on the file of the Judicial Magistrate Court, Andipatti.

2.The second respondent gave a complaint to the first respondent police to the effect that there was a property dispute between the parties and that on 17.03.2021 at about 11.30 am, the petitioner intercepted him and abused him in filthy language and also criminally intimidated him. Based on the complaint, a case in Cr.No. 35 of 2021 was registered by the first respondent. On completion of investigation, final report was filed before the Court and it was taken on file in CC No. 98 of 2021 for the offence punishable under Sections 294(b), 341, 506(i) IPC.

3.When the matter came up for hearing on 07.11.2024, it was brought to the notice of this Court that the petitioner also gave a complaint



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against the second respondent and others. Based on which, FIR came to be registered in Cr.No. 34 of 2021. On completion of investigation, final report was filed against five accused persons before the same Court and it was taken on file in C.C.No. 99 of 2021.

4.Considering the pending property dispute between the parties and a suit, that is pending before the District Municipal Court, Andipatti, this Court suggested that both criminal proceedings can be closed and parties can be left to agitate their grievances before the civil Court, where the suit is pending. The learned counsel for the petitioner sought for some time to take instructions in this regard.

5.When the matter came up for hearing today, the learned counsel for the petitioner submitted that the petitioner will abide by any order passed by this Court.



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6.The learned counsel further submitted that the petitioner has filed a suit before the District Munsif Court, Andipatti in O.S No. 29 of 2021 and the same was decreed by an *ex-parte* decree and Judgment, dated 04.10.2021. In this suit, already the decree of permanent injunction was violated and for which, a complaint was given on 09.11.2024 seeking for police protection and the same was not acted upon. The learned counsel therefore submitted that some protection has to be given to the petitioner.

7.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the first respondent. Though name of the second respondent is printed in the cause list, there is no appearance on his behalf either in person or through his counsel.

8.In the considered view of this Court, there is a property dispute between the parties. The petitioner has already filed a suit in OS No. 29 of 2021 before the District Munsif Court, Andipatti seeking for a relief of permanent injunction and *ex-parte* decree and Judgment was passed on



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04.10.2021. No useful purpose will be served in prosecuting the criminal case, when the title to the property is already decided by the competent civil Court.

9.The learned counsel for the petitioner submitted that an *ex-parte* decree has passed in the suit and steps have been taken by the rival party to file a petition to set aside the *ex-parte* decree and the same is pending.

10.In view of the same, this Court is inclined to interfere with both the case and counter case. So that the parties need not waste their time before the criminal Court and they can effectively conduct the case before the civil Court.

11.In the light of the above discussions, the entire proceedings in C.C No. 98 of 2021 and 99 of 2021 pending before the Judicial Magistrate, Andipatti is hereby quashed.



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12.In the considered view of this Court, if an *ex-parte* decree has already been granted in favour of the petitioner and attempt is being made by the rival party to interfere with the possession and enjoyment, the petitioner can very well file an execution petition before the concerned Court and seek for police protection. Since the entire issue is before the civil Court, unless and otherwise direction is given by the civil Court, the police cannot act. Except giving this liberty, no further order can be is passed in the quash petition.

13.Accordingly, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petitions are closed.

11.11.2024

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



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To

1. The Judicial Magistrate, Andipatti

2. The The Inspector of Police,
Mayilandumparai Police Station,
Theni District.(Crime No.35 of 2021).

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

PNM

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