



Crl.O.P(MD).No.19181 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD)No.19181 of 2021

and

Crl.MP(MD)No.10682 of 2021

T.P.David Dhas

... Petitioner / Accused

Vs.

**1.The State represented by
The Sub-Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.**

... 1st Respondent / Complainant

**2.Sherlinsheeba,
Village Administrative Officer,
Kadayaal Village, Kaliyal Post,
Kanyakumari District .**

**... 2nd Respondent / Defacto
Complainant**

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records relating to the FIR registered in Crime No.74 of 2021 on the file of the respondent police and quash the same as illegal as against the petitioner.

For Petitioner

: Mr.G.Prabhu Rajadurai

For R1

: Mr.R.M.Anbunithi,

Additional Public Prosecutor

For R2

: Mr.V.Rajiv Rufus



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ORDER

WEB COPY

This criminal original petition has been filed to quash the impugned FIR in Crime No.74 of 2021 on the file of the respondent police.

2.The case of the prosecution is that the petitioner / accused removed 50 numbers of Rubber Trees in R.S.No.216 at Kadayal Village, Kanyakumari District without getting prior permission from the concerned Government Authorities. Hence, the second respondent lodged a complaint, based on which, a case in Cr.No.74 of 2021 registered for the offence punishable under Section 379 of IPC. Challenging the same, the present petition has been filed.

3. The learned Counsel appearing for the petitioner submitted that the land comprised in S.No.216 was in possession and occupation of several persons including the petitioner's predecessor namely, Palaiyyan. However, the Forest Department claiming that the above said land is Forest Land. In this regard, for the past 43 years, i.e., from 1981, there is dispute between the Government and the predecessor of the petitioner & the petitioner. On earlier occasions, on the complaints and the Writ



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Petitions filed by the petitioner herein against the Forest Officials for corruption and illegal rectification, disciplinary proceedings were initiated against the above said officials by this Court. Thereby, with an intention to harass the petitioner, present FIR has been registered against the petitioner. The alleged removed trees were planted and grown by the petitioner on his own land. So, the offence under Section 379 of IPC would not made out as against the petitioner. Accordingly, he prayed for quashing of the impugned FIR.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that the Principal District Munsif Court, Kuzhithurai, by the order dated 19.09.1983, in O.S.No.1 of 1981, clearly held that the suit property belongs to the Government cannot be disputed. The possession of the plaintiffs cannot therefore ripen into title as they have been in possession only under the government paying kuthagaipathyam tax and penalty under B memo. As such, the government is fully competent to evict the plaintiffs from the suit properties under due processes of law. Against which, the plaintiffs have not filed any appeal. Hence, it is made clear that the petitioner is not a true owner of the land in R.S.No.216 at Kadayal Village, Kanyakumari



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District. He had recognized the ownership of the government over the land and paid penalty for cutting trees illicitly on previous occasions, he is bound to pay penalty or liable for criminal proceedings as per law. Since, there is specific allegation against the petitioner, he vehemently opposed to allow this petition.

5. The learned counsel appearing for the second respondent submitted that the petitioner has no legal or title right over the “Fringe Forest” land. He is an unauthorized encroacher. He has no right to plant rubber saplings or to remove the grown up trees using heavy earth moving machineries. The land in S.No.216 is situated in close proximity to the reserve forest. Uprooting of trees will result in land slides in adjacent hill areas and affect the reserve forest area. The petitioner removed fully grown rubber trees worth about Rs.1 lakh in the fringe forest area by using heavy earth moving machineries without getting prior permission from the concerned Government Authorities and the same were recovered from him. Hence, he prayed for dismissal of this petition.

6. Heard the learned counsel appearing for the petitioner, learned Additional Public Prosecutor appearing for the first respondent and the



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learned counsel appearing for the second respondent and perused the records available on records.

7.It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offences, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in the threshold. This Court finds that the FIR discloses *prima facie* commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

8. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

21.06.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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A.A.NAKKIRAN, J.

dss

To

- 1.The Sub-Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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