



Crl.O.P.(MD)No.20672 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20672 of 2024
and Crl.M.P(MD).No.12768 of 2024

Peer Mohammed

... Petitioner

Vs.

1.The State of Tamil Nadu,
rep., by The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.
Crime No.392 of 2024

2.Murugan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in Crime NO.392 of 2024 on the file of the respondent police and quash the same in so far as the petitioner is concerned.

For Petitioners
For R1

: Mr.M.Sankar
: Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)



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ORDER

The petitioner's contention is that the petitioner had constructed steps to his property, which, according to the defacto complainant, has been encroached upon the defacto complainant's land and at that time of construction of the steps, the petitioner had damaged the survey stone placed in S.No.497/1 to 497/11 and hence, the second respondent had lodged a complaint. The respondent police had registered a case and failing to consider that earlier civil suit was filed by the second respondent/defacto complainant in O.S.No.180 of 1999 and the same was dismissed. The petitioner is the adjacent property owner, which is not in dispute. The defacto complainant himself was not aware about what is the extent of property and its boundaries. On mere presumption and assumption, complaint has been lodged. Hence, prayed for quash.

2. The learned Government Advocate (Crl.side) would submit that the defacto complainant is none other than the Executive Officer of the Periyannayagi Thiruvalluthesvarar Thirukovil, Eruvadi, Nanguneri. The defacto complainant had obtained a Court order of civil Court,



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Nanguneri, thereafter, made an application to survey the land and found that the property in S.No.497/1 to 497/11 belongs to the temple property, in which, the petitioner had encroached the temple's property removing the survey stones. Hence, lodged a complaint. In this case, now 7 witnesses have been examined including the revenue officials and survey officials. The marking and laying of the survey stone is recorded and on visit of scene of occurrence, it is found that it is removed in that place and the petitioner had put up stairs and encroached upon the defacto complainant's property. The case is under investigation, soon final report to be filed.

3. In view of the above, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is dismissed. In any event, the respondent police to file a final report in this case within two months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
Rmk

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To

- 1.The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

Rmk

Order made in
Crl.O.P.(MD)No.20672 of 2024

Dated: 27.11.2024