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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2025

CORAM

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

Crl.O.P(MD)No.18795 of 2022
and
Crl.M.P(MD)Nos. 12651 and 12653 of 2022

Mohammed

... Petitioner

Vs

1. The Inspector of Police,
Palanichettypatti Police Station,
Theni District. (Cr No.217/2017).

2. Raja

... Respondents

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to call for the records relating to the charge sheet in C.C.No.263 of 2019 pending on the file of Judicial Magistrate Court, Theni and quash the same as against these petitioners as illegal.

For Petitioner	: Mr.Sulthan Basha J,
For R1	: Mr.A.Albert James Government Advocate (Crl.Side)
For R2	: Mr.S.Vignesh Shanmugam For Ajmal Associates



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings pending in C.C.No.263 of 2019, on the file of the learned Judicial Magistrate, Theni.

2.The case of the prosecution is that the accused persons trespassed into the property and cut down coconut trees and caused damages to the tune of Rs.10 Lakhs. Based on this complaint given by the second respondent, an FIR came to be registered in Crime No.217 of 2017 as against nine accused persons. On completion of investigation, the police report was filed before the Court below and except the petitioner, the names of all the other accused persons were deleted. The Court below has taken cognizance of the police report for the offence under Sections 447, 427 and 379 of IPC and issued process to the petitioner. Aggrieved by the same, the present quash petition has been filed before this Court.

3.Heard the learned Counsel appearing on either side.



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4.It is seen from records that there is already a civil dispute pending between the parties in O.S.No.29 of 2015. That apart, the mother of the defacto complainant had given the earlier complaint with almost the same set of allegations which resulted in C.C.No.61 of 2014, which was tried by the learned Judicial Magistrate, Theni. After full fledged trial, by judgment dated 05.06.2015, all the accused persons were acquitted from all charges. The accused persons in that case are the same accused persons whose names were shown in the FIR in Crime No.217 of 2017. The petitioner was also shown as A2 in that case. While so, the present complaint have also been given almost on the same grounds. The fact remains that there is already a civil dispute between the parties, where the suit has been filed for decree of permanent injunction and the issue is as to who is in the possession of the property.

5.A civil dispute has been attempted to be given a criminal color. The question regarding possession of the property will be determined only by the civil Court and according to the accused persons, they are in possession of the property and they have cut down the coconuts and therefore there is no offence committed by them. The *inter se* civil rights between the parties cannot be decided by the criminal court and therefore



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no specific finding can be rendered with respect to the offence alleged to have been committed by the accused person. In view of the same, the continuation of the criminal proceedings as against the petitioner will result in abuse of process of law, which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C

6. In the result, the proceedings in C.C.No.263 of 2019, on the file of the learned Judicial Magistrate, Theni is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

24.01.2025

Internet : Yes
Index : Yes/No
NCC : Yes/No
LR

To

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



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N.ANAND VENKATESH, J.

LR

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