



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03-11-2025

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 52 of 2023

AND

CRL MP(MD) NO. 50 OF 2023

1. CHOKKALINGAM
2. CHELLACHAMY
3. CHIDAMBARAM
4. RAMAKRISHNAN
5. GANESAN
6. KARUPPAIAH
7. MANIKANDAN
8. TAMILARASAN

Petitioner(s)

Vs

1. The Sub Inspector of Police,
Velayuthapattinam Police Station,
Sivagangai District.
2. Sathishkumar,
Ex-Village Administrative Officer,
Eekarai Kottavayal Group,
Devakottai Taluk,
Sivagangai District.



Respondent(s)

For Petitioner(s): Mr.K.R.Laxman

For Respondent(s): Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl.side) for R1

Prayer:

C-51.Q To call for the records pertaining to C.C.No.214/2022, pending on the file of the Learned Judicial Magistrate, Devakottai and to quash the same as illegal.

ORDER

The present criminal original petition is filed to quash the C.C.No. 214/2022 on the file of the Learned Judicial Magistrate, Devakottai from Crime No. 63 of 2020 for the alleged offences under section 147, 447, 427 and 430 of IPC.

2. The case of the prosecution is that the 2nd respondent had lodged a complaint on 16.06.2020 that Sri Kaliyamman, Karuppar and Sonai Temples are located the banks of the Kottavayal tank in Kottavayal Village in S.No.20/9 measuring 0.20.00 Ares a government puramboku land as found in the revenue records. On 05.06.2020 the 2nd respondent received information that few persons including the petitioner herein are levelling up the existing pond located on the right side of the temple and digging a new pond on the east of the temple. Hence the 2nd respondent along with Village Assistant and Revenue Inspector intervened and halted the petitioners from doing so. Thereafter, on 06.06.2020, the next day the petitioners restored the aforementioned area with the JCB and also have cleared the



bushes i.e. Velikaruvai bushes. Upon the complaint of the 2nd respondent dated 16.06.2020, the 1st respondent registered the FIR on 09.07.2020 in the Crime No.63 of 2020 with the Observation Mahazar dated 09.07.2020, final reported filed on 18.08.2020, taken cognizance in C.C.No.214 of 2022.

3. The Section 147 of IPC would not be attracted since there is no allegation of rioting by unlawful assembly. The allegation against the petitioners is that they closed the existing pond and tried to dig a new pond and the same cannot be considered as rioting.

4. The section 447 of IPC is punishment for criminal trespass. The said section would be attracted if the person enters another person's land in order to intimidate, insult or annoy any person in possession of such property. The petitioners were under the impression that the exiting pond is not bringing goodness to the temple and hence they intended to close the existing pond and dig another pond on the eastern side. Therefore, the said intent would not attract criminal trespass and section 447 is not attracted.

5. The section 427 and 430 speaks about mischief. The said sections would be invoked if the petitioner with intent to cause or knowing that he is likely to cause wrongful loss or damage to the property or public property, or causes damage to the supply of water for agricultural purposes or for food or drink for human beings



or for animals. In the present case the allegation against the petitioner is that the petitioners had closed the pond thereby caused damage to the pond. The Learned Counsel appearing for the petitioners submitted that the petitioners are ready and willing to restore the original pond and has submitted an undertaking affidavit that he would restore the pond. This Court is of the considered opinion when the damage could be rectified, then the petitioners ought to be granted permission to rectify the damage. Once the pond is restored, then the petitioners are entitled to quash.

6. Therefore, the 1st petitioner is directed to restore the pond within a period of four weeks from the date of receipt of a copy of this order. On such restoration of the pond by the 1st petitioner, the C.C.No.214/2022, on the file of the Learned Judicial Magistrate, Devakottai, is hereby quashed.

7. With the above said directions, the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

03-11-2025

Tmg



To

1. The Sub Inspector of Police,
Velayuthapattinam Police Station,
Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
3. The Judicial Magistrate,
Devakottai.