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CrI.A.No. 1063 OF 1997
ITEM No.103

Court No.10

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No.1063 of 1997

P. Vivekanandan Nair & Anr. Appellants.

VERSUS

S. Doraiswami Iyer (Dead) & Anr. Respondents.

Date : 11/02/2004: This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s) Mr. R. Mohan, Sr. Adv.
Mr. Dilip Pillai, Adv.
Mr. B.V. Deepak, Adv.

For Respondent (s) Mr. S. Balakrishnan, Sr. Adv.
Mr. S. Prasad, Adv.
Ms. Prachi Bajpai, Adv.
Mr. S.N. Jha, Adv.

Mr. Ramesh Babu M.R., Adv.
Ms. Anupama Madanan, Adv.

UPON hearing counsel the Court made the following
O R D E R

Mr.R. Mohan, learned senior counsel for the appellants started his arguments at 12.10 p.m. and concluded at 12.35 p.m.
The appeal is disposed of in terms of the signed order.

(R.K. DHAWAN) (VEERA VERMA)
COURT MASTER COURT MASTER

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1063 OF 1997

P. Vivekanandan Nair & Anr. Appellants.

Versus

S. Doraiswami Iyer (Dead) & Anr..... Respondents.

O R D E R

Accused no.1 and 4 in a complaint case are before us challenging the order passed by the learned Single Judge. The first respondent filed a criminal complaint alleging that these accused nine in numbers formed themselves in an unlawful assembly and trespassed into the property of the complainant on 5.12.1992 and demolished the car shed and caused other mischiefs in the property and thereby committed various offences punishable under Sections 147, 148, 341, 342, 395, 406, 427, 440, 452, 465, 506(1), 109 and 120-B read with section 34 IPC and Section 82(b) of the Indian Registration Act, 1908. The magistrate took cognizance of several offences alleged in the complaint. Aggrieved by the same accused nos.1 and 4 filed criminal misc. case under Section 482 of Cr.P.C. alleging that there are series of civil disputes between the parties and the acts, if any, committed by these accused would amount to settling the civil disputes and no criminal offence is made out. The learned Single Judge was not prepared to accede to the prayer made by these petitioners and criminal revision was rejected, hence this appeal by special leave.

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We have heard learned counsel for the appellants and also the counsel for the respondents. We also perused the averments made in the complaint filed by the first respondent. No specific averments have been made against accused nos. 2 to 9 regarding the demolition of the car shed or causing any mischief in the property of complainant. From the allegations in the complaint the counsel for the respondent could not point out any specific overt act on the part of these accused persons. It is also not clear from the averments whether these accused were physically present at the time of the alleged act committed by the accused. In the circumstances, criminal proceedings against accused nos. 2 to 9 are quashed and the complaint filed by the respondent shall proceed only against first accused. The first accused would be at liberty to raise all his contentions against the complaint filed by the first respondent including the prayer for impleading the legal representatives of deceased first respondent. Accused nos.2 to 9 are discharged and the appeal is disposed of accordingly.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)
NEW DELHI;
FEBRUARY 11, 2004.