



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.O.P.(MD)No.10620 of 2017

S.Subramanian : Petitioner/2nd Accused

-Vs-

Vasudhara Enclave House and Flat Owners Association
Represented by its Secretary Mr.L.Suresh,
No.84, T.P.K.Road,
Andalpuram,
Madurai - 625 003. : Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.324 of 2016 on the file of the learned Judicial Magistrate No.IV and quash the same as against the petitioner.

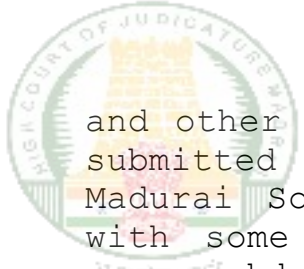
For Petitioner : Mr.R.Suresh

O R D E R

This petition is filed to quash the private complaint pending in C.C.No.324 of 2016 on the file of the Judicial Magistrate No.IV, Madurai.

2.The case of the petitioner is that the petitioner is the second accused and that the private complaint is for offences punishable under Sections 120(B), 294(b), 506(ii), 461, 464, 468, 420 and 500 I.P.C.

3.The petitioner is a retired Central Government employee and is aged 74 years old. The petitioner states that he purchased a flat in Vasudhara Enclave. It appears that the residents of Vasudhara Enclave have formed an association for the welfare of the residents by name Vasudhara Enclave House and Flat Owners Association. This association is formed in the year 2010. It appears that there is a dispute with regard to the conduct of election to the office bearers. The case of the petitioner is that the respondent / who is the de-facto complainant was elected as General Secretary of the association in the election that was conducted on 22.12.2013. After assuming charges by the President



and other office bearers including the respondent, the respondent submitted Form-VII on 09.01.2014 before the District Registrar, Madurai South for approval. The said application was returned with some queries. It is alleged that Form-VII has not been approved by the District Registrar. It is further stated that the Secretary was acting on his own without adhering to the decision of the Collective Body or the other office bearers, passed several resolutions and due to personal vengeance, filed the criminal complaint in C.C.No.324 of 2016 against Ex Office bearers including the petitioner. In the petition, the petitioner has not stated anything about the allegation that was averred against the accused in the criminal complaint. It is to be noted that the only ground that was raised by the petitioner in the petition is about the maintainability of the complaint by the respondent represented by Mr.L.Suresh. According to the petitioner, since Form-VII with regard to the particulars of the office bearers were not approved by the District Registrar, Mr.L.Suresh is not a Secretary of the association and that therefore, he has no locus standi to file the present case. Approval of Form-VII is only a ministerial act. So long as the election of member as Secretary is not challenged in the manner known to law, this Court cannot assume want of locus standi to the Secretary in office to maintain the complaint. This Court is fully convinced that the private complaint is about certain irregularities committed by the second accused when he was in office as President of the association. The allegations certainly constitute cognizable offence for which the case is filed and pending. In such circumstances, this Court is not in a position to appreciate the submission of the learned counsel for the petitioner and hence, this Criminal Original petition is dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.IV,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

+1 cc to Mr.R.Suresh , Advocate in SR.No. 75557

SRM

AE/SV MMS/SAR3/19.09.2017/2P/4C