

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.29011 of 2018
and Crl.MP.No.16943 of 2018

G.Hudson Das

...Petitioner/Accused

-Vs-

The State represented by the Inspector of Police,
G2 Police Station,
Perimedu, Chennai 600 003

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the FIR Registered in Crime No.73 of 2017 dated 10.01.2017 on the file of the respondent.

For Petitioner : Mr.P.Ebenezer Paul

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the FIR registered in Crime No.73 of 2017 on the file of the respondent police.

2. The petitioner was working as an Office Assistant in the Additional in Additional Mahila Court at Allikulam, Egmore, Chennai. It is stated that on 03.12.2016, when the petitioner was in the Court premises, he has broken the window panel at the II Metropolitan Magistrate Court Chamber. When the petitioner was questioned about the same, he had stated that he was under depression and mental agony due to his family problems. It is further stated in the complaint that the petitioner himself undertook to fix the broken window panel. The complaint was given by the Sheristadhar of the Chief Metropolitan Magistrate, Egmore in this regard and the respondent police have registered an FIR for an offence under Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.

3. The learned counsel for the petitioner would submit that the petitioner never intended to break or destroy any public property and it happened, all of a sudden in spur of the moment, due to the depression and mental agony caused to the petitioner in view of his family problems. The learned counsel appearing for the petitioner would further submit that even if the allegations made in the complaint are taken as it is, no offence has been made out under Section 3 of the Tamil Nadu Property Prevention of Damage and Loss Act, 1992. The learned counsel appearing for the petitioner would further submit that the FIR has been pending from the year 2017 and due to the pendency of the FIR, disciplinary proceedings have

been initiated against this petitioner and he has been dismissed from service by an order dated 20.03.2018 by the Chief Metropolitan Magistrate Court, Chennai.

4. The learned Additional Public Prosecutor submits that the allegations made in the complaint make out an offence under Section 3 of the Tamil Nadu Property Prevention of Damage and Loss Act, 1992. The learned Additional Public Prosecutor would further submit that the mental status of the petitioner can be established only during the course of the trial and there is no ground for this Court to interfere with the investigation at this stage.

5. This Court has carefully considered the submissions made on either side.

6. There is no dispute with regard to the incident that had taken place on 03.12.2016. The admitted case of the petitioner is that he was suffering from depression and mental agony due to family problems and he also got a message that his mother was suffering from sudden illness and in the spur of the moment, the petitioner had inadvertently broken the window panel. The petitioner had also given an undertaking that he will fix the broken window panel on 04.12.2016.

7. This Court is not able to see any criminal intent on the part of the petitioner. The culpable state of mind is absent in this case. In order to constitute an offence under Section 3 of the Tamil Nadu Property Prevention of Damage and Loss Act, 1992, the ingredients of mischief as defined under Section 425 of IPC must be satisfied. In order to constitute an offence of mischief, there must be a intention to cause or a knowledge that he is likely to cause a wrong full loss or damage to public property or to the owner of any property Explanation 1 of Section 425 of IPC, makes this position very clear.

8. In view of the above, no offence has been made out against the petitioner under Section 3 of the Tamil Nadu Property Prevention of Damage and Loss Act, 1992, since the culpable state of mind is completely missing in the entire complaint given against the petitioner.

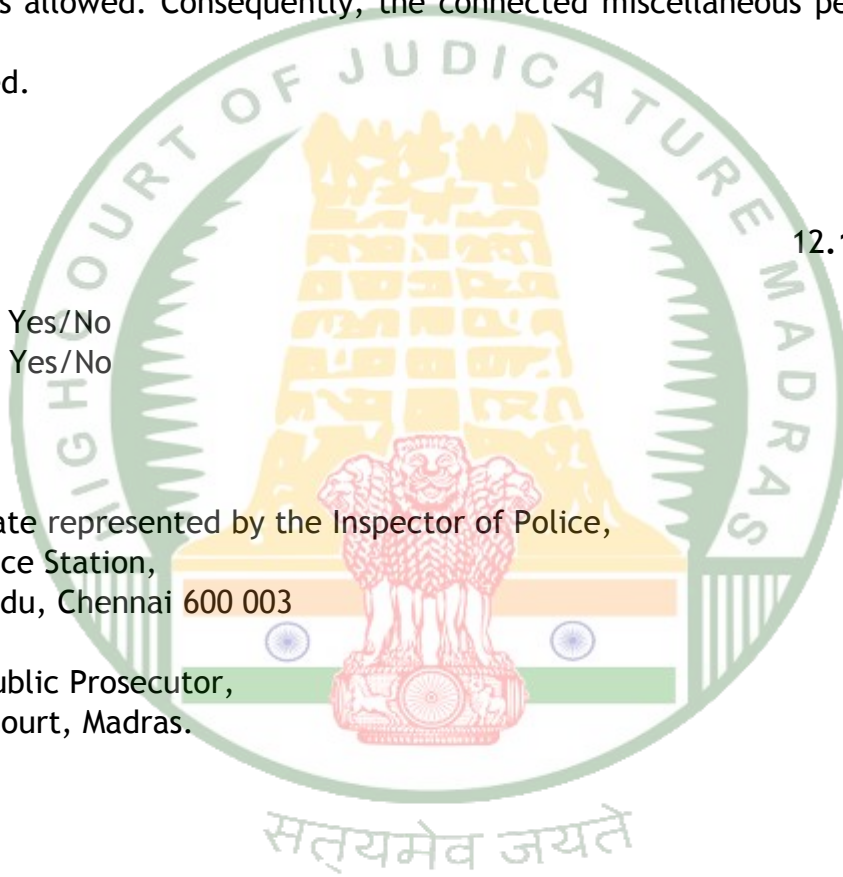
9. No useful purpose will be served by keeping the FIR pending and in fact, it will unnecessarily affect the future of this petitioner. More particularly, due to the fact that no offence has been made out as against the petitioner.

10. In the result, the FIR in Crime No.73 of 2017 on the file of the respondent/Police is hereby quashed. Accordingly, this Criminal Original petition is allowed. Consequently, the connected miscellaneous petition is also closed.

12.12.2018

Index : Yes/No
Internet : Yes/No
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To

1. The State represented by the Inspector of Police,
G2 Police Station,
Perimedu, Chennai 600 003
2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

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