

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.26374 of 2016
and
CrI.M.P.No.8112 of 2018 &
CrI.M.P.No.4052 of 2019

1.B.Saravanan
2.S.Rooban Kumar
3.B.Parthasarathy ...Petitioners

Vs.

1.State Represented by its
Sub-Inspector of Police
M-7, Manali New Nagar Police Station
Chennai 600 103

2.S.Kadirvel ...Respondents

PRAYER:Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in Crime No.804/2015 on the file of the respondent police and quash the same under the circumstance of the case.

For Petitioners : Mr.R.Anandha Babu

For Respondents : Mr.M.Mohamed Riyaz for R1
Addl. Public Prosecutor

Mr.R.Karunagaran for R2

ORDER

The Criminal Original Petition has been filed by the petitioner under Section 482 of Cr.P.C., to call for the records in Crime No.804/2015 on the file of the respondent police and quash the same under the circumstance of the case.

2.The learned counsel for the petitioners has submitted that the first petitioner is the father of the second petitioner and the third petitioner is the relative of the first petitioner. He further submitted that the first petitioner has leased out a vacant site measuring about 2500 sq ft in

Andalkuppam Village to the second respondent/defacto complainant under a lease deed dated 17.08.2012 for a period of 11 months for the purpose of running a hotel. He further submitted that the second respondent has sublet the said property to one Pradeepkumar and the said pradeep Kumar put up a thatched hut and running a hotel in the name and style of P.K.Punjabi Thaba. He further submitted that the said Pradeep Kumar is permitting drunkards to drink in the hotel premises and allowing unknown persons to stay during night hours with women. He further submitted that when the first petitioner questioned the same, the said Pradeep Kumar has lodged a complaint before the first respondent on 27.10.2014, stating that he is in possession of the said property. He further submitted that based on the said complaint, the Police enquired the matter and during enquiry, the second respondent herein and the said Pradeep Kumar gave undertaking that they will vacate the premises within a period of six months, but contrary to their undertaking, they continued to run the hotel and hence, the first petitioner demanded the second respondent and the said Pradeep Kumar to vacate the premises..

3.The learned counsel for the petitioner further submitted that on 27.12.2015, the first petitioner lodged a complaint before the first respondent and thereafter, the said Pradeep Kumar has taken all the articles from the premises and the second respondent has lodged a false complaint stating that the petitioners herein have damaged the hotel and the articles which were placed in the said hotel with the help of JCB. He further submitted that when Pradeep Kumar is in possession of the said property as sub-tenant, the second respondent has no local standi to lodge a complaint stating that he is running the hotel and his properties were damaged. He further submitted that even though the First Information Report was registered on 27.12.2015, till the matter has been stayed by this Court on 19.06.2018, the first respondent has not seized any material to show that the petitioners have committed damages to the said hotel.

4. In the typed set of papers filed by the petitioners, a copy of the complaint submitted by the first petitioner before the Inspector of Police, M-7 Police Station, Manali Pudhu Nagar, Chennai dated 27.12.2015 has been enclosed. In the said complaint, he has stated that the defacto complainant has sublet the land to one Pradeep Kumar and the said Pradeep Kumar gave a complaint before the Police on 27.10.2014. The petitioners also enclosed a copy of the complaint given by the first petitioner's wife Tmt.Meenakshi dated 05.01.2016 to the Commissioner of Police, Chennai and in the said complaint also, it is stated that one Pradeep Kumar gave a complaint against the petitioners and based on the said complaint, the said Pradeep Kumar has

taken all the articles from the hotel premises on 28.12.2015.

5. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor and also perused the records carefully.

6. The learned counsel appearing for the petitioners would submit that even if all the allegations found in the FIR are taken on the face of it that they were true, even then, no offence as enumerated in the FIR would be made out. Thus, according to him, it is clear abuse of process of law. Therefore, the FIR is liable to be quashed, the learned counsel for the petitioner contended.

7. The learned Additional Public Prosecutor, however, stoutly opposed this original petition. According to him, the allegations in the FIR would certainly make out offences as stated in the FIR. He would however, submit that though this case has been pending from the year 2015, because of an order of interim stay granted by this Court, no further progress could be made out in the matter of investigation.

8. As rightly pointed out by the learned counsel appearing for the petitioners, the dispute involved in this case is purely Civil in nature, which needs to be resolved by the Civil Court. Absolutely, there is no allegation that the accused ever played any deception or induced the defacto complainant to part with the property and that the said inducement was by means of fraud or dishonesty. At the most, it can be said that it is only a breach of contract or Agreement making out no offence. Thus, this Court is of the considered opinion, the registration of the present case is wholly baseless and allowing the investigation to go further would not serve any useful purpose as it would be only a wastage of time. Therefore, applying the law laid down by the Hon'ble Supreme Court in State of Haryana V. Bhajanlal, AIR 1992 SC 604, this Court is inclined to quash the FIR.

10. In the result, the Criminal Original Petition is allowed and the FIR in Crime No.804 of 2015 on the file of the respondent police, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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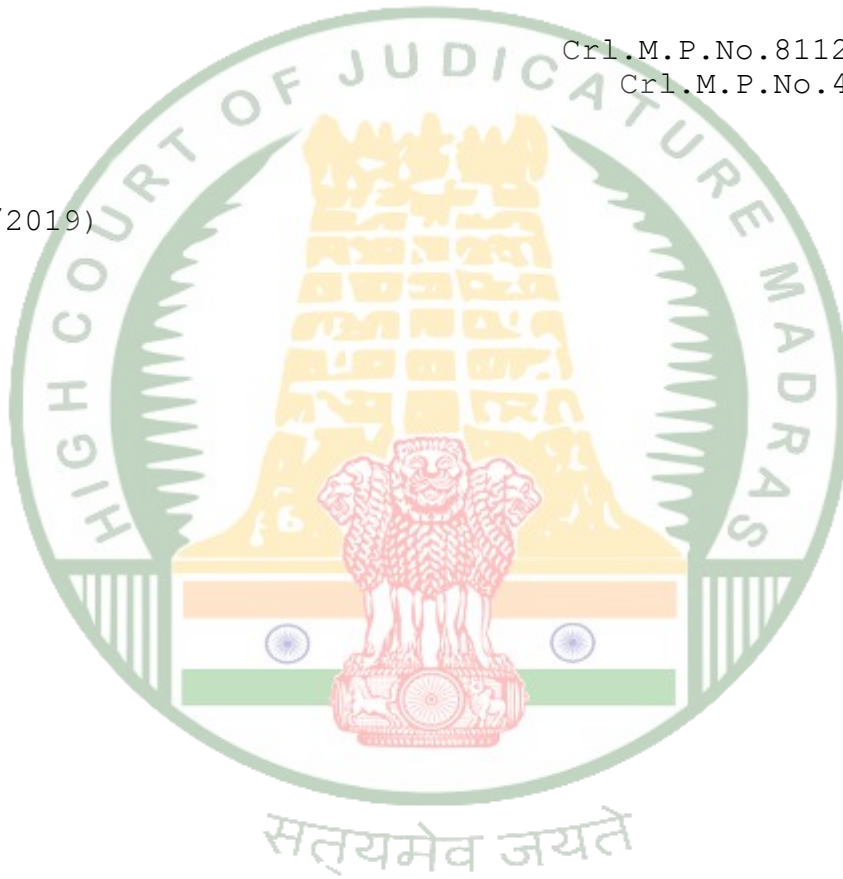
To
1.Sub-Inspector of Police
M-7, Manali New Nagar Police Station
Chennai 600 103

2.The Public Prosecutor, High Court of Madras.

+3ccs to Mr.R.Anandha Babu, Advocate SR.No.26417

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and
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CD(CO)
GMY(08/04/2019)



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