

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.24829 of 2010

1.E.Jayavelu
2.J.Neelavathi
3.N.Easwari

... Petitioners

Vs.

E.Shantha

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in respect of C.C.No.3358 of 2010, pending on the file of the VIII Metropolitan Magistrate Court, George Town, Chennai and quash the same as contrary to law and illegal and discharge the petitioners.

For Petitioners: Ms.Anitha
for M/s.R.Munusamy

For Respondent : No Appearance

O R D E R

The petitioners have filed this petition seeking to call for the records in respect of C.C.No.3358 of 2010, pending on the file of the VIII Metropolitan Magistrate Court, George Town, Chennai and to quash the same as contrary to law and illegal and discharge the petitioners.

2.The petitioners and the respondent are landlord and tenant. The first petitioner is the husband of the second petitioner and father of the third petitioner. The case of the petitioners is that the first petitioner is the absolute owner of the property situated at No.40, Bashyakaralu Street, Kondithope, Chennai and they are residing in the first floor of the building. The respondent and her husband were tenants in respect of a residential portion in the ground floor of the building and the respondent's husband and sons were tenants in the shop portions in the ground floor of the building. Since

the respondent's husband and sons committed default in payment of monthly rent, the first petitioner initiated evictions proceedings in R.C.O.P.Nos.2162 and 2163 of 2007 before the XIII Small Causes Court, Chennai to evict them from the residential as well as from the commercial portions.

3.It is the further case of the petitioners that the said R.C.O.Ps. were decided in favour of the first petitioner and eviction was ordered and the property was delivered to the first petitioner. During the pendency of the eviction proceedings, the respondent and her husband and sons also failed to pay the electricity and water charges and hence the Electricity Board Officials disconnected the service to the tenanted portion. Enraged by the legal action taken by the first petitioner and by the disconnection of electricity, the respondent, her husband and their sons filed R.C.O.P.Nos.49 and 50 of 2009 before the XII Small Causes Court, Chennai and the said R.C.O.Ps. were dismissed. However, in order to wreck vengeance, the respondent has lodged a private complaint as against the petitioners in C.C.No.3358 of 2010, before the VIII Metropolitan Magistrate Court, George Town, Chennai. Challenging the same, this criminal original petition has been filed.

4.The learned counsel appearing for the petitioners would submit that the respondent has given complaint in the jurisdictional Police Station and a case in Crime No.192 of 2009 was registered as against the first petitioner for the offence punishable under Section 75 cl (1) C City Police Act and would further submit that the respondent instead of pursuing her remedy in the said crime number has filed a private complaint in C.C.No.3358 of 2010 which is un-sustainable.

5.The learned counsel appearing for the petitioner would further submit that earlier this Court referred the matter to the Tamil Nadu Mediation and Conciliation Centre and since the parties were not able to arrive at an amicable settlement, the matter was sent back to this Court.

6.Heard the learned counsel appearing for the petitioners. No one represented on behalf of the respondent. This Court also perused the materials available on record.

7.Perusal of records discloses that the R.C.O.Ps. filed by the first petitioner were allowed and the R.C.O.Ps. filed by the respondent and her family were dismissed. This Court also perused the complaint filed by the respondent. In the complaint, the respondent has stated about the R.C.O.Ps. filed by the first petitioner as well as by her, however, the respondent has not stated about the result of the R.C.O.Ps.

8.The first petitioner is alleged to have assaulted the respondent on 15.03.2009, however, the respondent has lodged a complaint before the jurisdictional Police Station i.e., C-3, Seven Wells Police Station only on 17.03.2009 and a case in Crime No.192 of 2009 has been registered as against the first petitioner for the offence punishable under Section 75 cl (1) C City Police Act. Thereafter, the respondent has again filed a private complaint in C.C.No.3358 of 2010 before the VIII Metropolitan Magistrate Court, George Town, Chennai.

9.The matter is purely a civil dispute and already the same has been ventilated before the competent civil Court. Hence, I have no hesitation to state that the complaint does not make out any case.

10.This criminal original petition is accordingly allowed and the complaint in C.C.No.3358 of 2010 on the file of the VIII Metropolitan Magistrate Court, George Town, Chennai, is hereby quashed. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The VIII Metropolitan Magistrate Court,
George Town, Chennai.
- 2.-do-Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to Mr.R.Munusamy, Advocate SR.103581

LN(CO)
CB(29/01/2020)

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