



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.20494 of 2014

and

MP(MD)No.1 of 2014

WEB COPY

J.Joseph Martin

... Petitioner / Accused

Vs.

1.The Sub Inspector of Police,
Town North Police Station,
Dindigul Taluk, Dindigul District.
(Crime No.902 of 2011)

... 1st respondent / complainant

2.Mayakrishnan

... 2nd respondent / defacto complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records of the impugned charge sheet in C.C No.431 of 2011 on the file of the Judicial Magistrate No.II, Dindigul and quash the same.

For Petitioner : Mr.M.Benazir begum

For Respondents : Mr.A.Robinson,

Government Advocate (crl.side) for R1
No appearance for R2

ORDER

The petitioner is facing trial in C.C No.431 of 2011 on the file of the learned Judicial Magistrate No.II, Dindigul for the offences under Sections 447, 341 and 506(i) IPC. The defacto complainant is the second respondent herein. The case of the second respondent is that the building in question belongs to the second respondent society. The petitioner was inducted as a tenant in the year 2007. After the lease period expired, the petitioner did not vacate the premises. Therefore, the electricity connection was cut off. Door lock was also put on the premises in question. According to the defacto complainant, the petitioner herein broke open the lock and committed trespass. Hence, he lodged information before the Town North Police Station, Dindigul leading to registration of Crime No.902 of 2011. Investigation was undertaken and final report was also filed and cognisance of the offences was taken in C.C No.431 of 2011 on the file of the Judicial Magistrate No.II, Dindigul. To quash the same, this petition has been filed.

2.Heard the learned counsel on either side.



3.It is not in dispute that the petitioner was a tenant under the second respondent. It is also not in dispute that the petitioner wanted renewal of the lease. Since the same was refused, the petitioner filed O.S No.417 of 2011 before the Principal District Munsif Court, Dindigul. After receiving notice in the suit, the present impugned FIR came to be lodged. It is not in dispute that the tenanted premises were not taken possession in the manner known to law.

4.It is seen that the second respondent had on his own cut the electricity connection and put double lock on the premises. The petitioner acted under the bonafide impression that since the tenanted premises have not been recovered from him, he is entitled to enter into the same. This cannot constitute trespass. Of course, if the building had been recovered from him, the tenant will not have any right to enter. But in this case, it is not so. The prosecution has not placed any material to indicate that the property in question was recovered from the petitioner in the manner known to law.

5.I am of the view that continuation of the impugned prosecution can only be characterised as an abuse of legal process. The impugned prosecution stands quashed. This petition stands allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Skm

To

- 1.The Judicial Magistrate No.II, Dindigul.
2. The Sub Inspector of Police,
Town North Police Station,
Dindigul Taluk, Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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