



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P (MD) No.15419 of 2020

and

Crl.M.P (MD) .No.7500 of 2020

Shanmuganathan

... Petitioner/Sole accused
Vs

1.State rep., by

The Sub-Inspector of Police,
Theni Police Station,
Theni District.

(In Crime No.3686 of 2020)

...1st Respondent/Complainant

2.Thiyagarajan

...2nd Respondent/Defacto
complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the impugned FIR registered in Crime No.3686 of 2020 dated 14.09.2020 on the file of the first respondent, quash the same.

For Petitioner : Mr.T.Bashyam

For R-1 : Mr.V.Neelakandan
Additional Public Prosecutor (Crl.side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the case in Crime No.3686 of 2020 pending on the file of the Sub-Inspector of Police, Theni Police Station, Theni District and quash the same as against the petitioner.

2.The case of the prosecution is that the petitioner's grandfather and uncle entered into a lease agreement with the second respondent. The second respondent agreed for the same and fixed the lease amount for a sum of Rs.4,00,000/-. After demise of the petitioner's grandfather and uncle, the petitioner asked the second respondent to vacate the shop. When the defacto complainant questioned the same, the petitioner along with others attacked the defacto complainant. Hence, the defacto complainant lodged a complaint with the first respondent. Based on the complaint given by the second respondent, a case was registered against the petitioner in Crime No.3686 of 2020 for the offence under Sections 294(b), 324, 109 and 506(ii) I.P.C.



3.The learned counsel appearing for the petitioner would state that the whole F.I.R is based on malafide action and hence, the same is liable to be quashed.

4.The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would submit based on the complaint given by the second respondent, a case was registered against the petitioner in Crime No.3686 of 2020 for the offence under Sections 294(b), 324, 109 and 506(ii) I.P.C and investigation is still pending.

5.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first respondent and perused the materials available on record. Since no adverse order going to be passed against the second respondent, notice to him is not necessary.

6.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

7.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and therefore, the grounds raised in this petition can be gone into now. However, considering the facts and circumstances of the case, the respondent/Police is directed to file charge sheet within a period of four months from the date of receipt of a copy of this order.

8.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

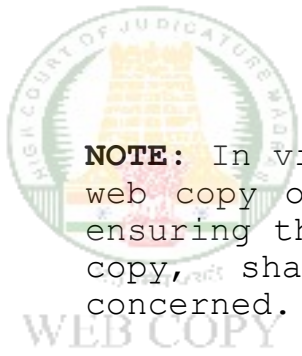
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Sub-Inspector of Police,
Theni Police Station,
Theni District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.15419 of 2020

22.12.2020

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