



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18..11..2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Criminal Original Petition No.18069 of 2015
and
M.P.No.1 of 2015

N.Pugalendi

...Petitioner/A-1

-Versus-

1. State Rep. by The Inspector of Police
Perambalur Police Station,
Perambalur Taluk and District.
[Crime No.576 of 2014]

...Respondent I/Complainant

2. M.Subramanian

...2nd Respondent/Defacto Complainant

Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records in Crime No.576 of 2014 on the file of the 1st respondent police and to quash the same.

For Petitioner

: Mr.S.Sathiaseelan

For Respondents

: Mr.C.E.Pratap,
Government Advocate
(Criminal Side) for R1

Mr.R.Kumaravel for R2

ORDER

This Criminal Original Petition has been filed by the petitioner, who has been arrayed as A1 in the case, seeking to quash the case registered in Crime No.576 of 2014 against the petitioner by the 1st respondent police against the petitioner for the alleged offence under Sections 294(b), 447 and 506(i) of IPC.

2. The 2nd respondent is the de facto complainant. The petitioner is the owner of the property measuring 7 Acre and 76 Cents comprised in different survey numbers situated at Perambalur North. The 2nd respondent has filed a complaint against the petitioner and others alleging that the petitioner entered into an agreement of sale with him agreeing to sell the



above said property for Rs.6,17,00,000/- and received a sum of Rs.5,00,00,000/- as part sale consideration, and for the remaining amount, on the instructions of the petitioner, the 2nd respondent paid a sum of Rs.2,47,60,000/- to one Sivaramalingam. That apart, he developed the property by spending sum of Rs.60,00,000/-. While so, on 25.07.2014, when he was working in the above said land, some unknown persons trespassed into the land and abused him and also criminally intimidated him. Hence, he lodged a complaint to the police on 13.08.2014, which was registered on 14.09.2014 against four unknown persons. Seeking to quash the same, the petitioner (A1) has come up with this original petition.

3. The learned counsel for the petitioner submitted that the petitioner has been employed in Bahrain and on the date of occurrence, he was in Bahrain. The petitioner never entered into an agreement with 2nd respondent as alleged in the complaint agreeing to convey the property. It is only the 2nd respondent who forged the agreement of sale in question. Therefore, the petitioner gave a complaint against the 2nd respondent through Indian Embassy on 03.08.2014. That apart, after the petitioner came to India, he had filed a suit in O.S.NO.442 of 2014 on the file of the District Munsif, Perambalur, and obtained an order of interim injunction on 25.08.2014 in I.A.No.1622 of 2014 as against the 2nd respondent restraining him from interfering with the peaceful possession and enjoyment of the property in dispute by the petitioner. Only thereafter, the 2nd respondent filed a suit in O.S.NO.444 of 2014 on the file of the District Munsif, Perambalur, for specific performance of contract. Now, both the suits have been pending for trial. The 2nd respondent was never put in possession of the property in dispute and he had filed the present complaint only to harass the petitioner. The complaint is nothing but an abuse of process and therefore, the learned counsel prays this court to quash the complaint.

4. The learned counsel for the 2nd respondent submitted that the petitioner (A1) entered into an agreement of sale to convey the property in question and received a sum of Rs.5 crores as part sale consideration. The possession of the property was also handed over to the 2nd respondent and ever since the date of possession, the petitioner has been in enjoyment of the same continuously. That apart, on the instructions of the petitioner only, the 2nd respondent paid a sum of Rs.2 Crores to one Sivaramalingam and also made improvement on the property in dispute by spending a sum of Rs.60 lakhs. Thus, a total sum of Rs.8 crores has been paid to the petitioner. While so, the petitioner (A1) refused to execute the sale deed with a mala fide intention and also made an attempt to interfere with the possession of the 2nd respondent by engaging hirelings and trespassed into the property in dispute and abused the 2nd



5. Per contra, the learned Government Advocate submitted that since the complaint made out a prima facie case, FIR was registered and investigation is still pending.

7. On a careful perusal of the available records, it could be seen that there is a civil dispute pending between the petitioner and the 2nd respondent. According to the 2nd respondent, on the date of agreement itself, he was put in possession of the property in dispute, thereafter, the petitioner refused to execute the sale deed pursuant to the agreement of sale and made an attempt to dispossess him from the property. On 25.07.2014, the hirelings employed by the petitioner trespassed into the property, abused him and also criminally intimidated him. However, the petitioner has disputed the very sale agreement, according to him, he has been still in possession of the property in dispute and the possession is not with the 2nd respondent and on the date of the alleged occurrence, he was in Bharain and he has been falsely implicated in the case.

9. For all the reasons discussed above, this court is of the view that the allegations made in the complaint are not sufficient to make out prima facie case for offence under Sections 294(b), 447 and 506(i) of IPC against the petitioner and therefore, continuing the criminal proceedings initiated against the petitioner pursuant to the complaints made by the



respondent would only amount to abuse of process and therefore, the criminal proceedings pending against the petitioner are liable only to be quashed in entirety.

In the result, the criminal original petitions are allowed and the criminal case registered in Crime No.576 of 2014 on the file of the 1st respondent police is quashed in its entirety. Consequently, connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Inspector of Police,
Perambalur Police Station,
Perambalur Taluk and District.
2. The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.S.Sathiaselvan, Advocate, S.R.No.59684

Crl.O.P.No.18069 of 2015

NSK 08/12/2021