



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.20298 of 2015 and
M.P.Nos.1 and 2 of 2015

P.Raji

...Petitioner/Accused No.1

Vs.

State represented by
Inspector of Police,
Hosur Town Police Station,
Hosur.

...Respondent/Complainant

Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.206 of 2009 pending on the file of the Judicial Magistrate No.II, Hosur and quash the same.

For Petitioner : Mr.N.Elayaraja

For Respondents : Mr.E.Rajthilak
Government Advocate (Crl.Side)

O R D E R

The present Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.206 of 2009 pending on the file of Judicial Magistrate No.II, Hosur and quash the same.

2. The case of the prosecution is that the defacto complainant is the owner of a complex, namely Kannappa Complex which consists of 8 shops. In the said complex, the petitioner herein was a tenant in the year 2003 and he occupied 3 shops in the said premises. The petitioner is irregular and default in paying rent. On 31.07.2008 at about 8.30 p.m., while the defacto complainant entered into his premises, some persons were digging a hole before his complex, the same was questioned by the defacto complainant, in view of the same, this petitioner attacked the defacto complainant with iron rods and thereby caused injury and hence the defacto complainant lodged a complaint.



3. The case of the petitioner is that one Anjappa, had given a complaint and the respondent had filed a case in Crime No.848 of 2008 against him, the same is pending before the learned Judicial Magistrate No.II, Hosur for the offences punishable under Section 341, 324 & 506(ii) of IPC. Further the said case is taken on file in C.C.No.206 of 2009. The petitioner is arrayed as A.1 and no case is made out against this petitioner as alleged by the prosecution. Aggrieved by the same, the petitioner herein has come forward to quash the said calender case.

4. The learned counsel for the petitioner submits that the petitioner was doing wood works business under the name and style of M/s Sri Balaji Wood Works from the year 2003 onwards. Suddenly, the defacto complainant refused to receive the rents, hence the petitioner filed RCOP No.10 of 2008 under Section 8(5) of Tamilnadu Buildings [Lease and Rent Control Act] before the learned District Munsif No.1, Hosur and the same is pending. At that time, the defacto complainant lodged the present complaint against the petitioner stating that the petitioner had attacked him and the defacto complainant was grievously hurt.

5. The learned counsel for the petitioner further submits that the respondent failed to see the statements as well as the documents produced by the defacto complainant, which does not disclose any prima facie criminal ingredients to proceed with the trial against petitioner herein. The Court below failed to note that the dispute between the parties constitute a civil wrong, the court would not permit the person to be harassed in criminal proceedings and reliance is placed upon the Judgment of this Court in N.R.Ramakoti and Another Vs. State & Others reported in 2011 (1) MLJ (Cr1.) 737 (Mad) and without considering the said factum, the court below took cognizance for the false complaint.

6. The learned counsel for the petitioner also submits that if the prosecution proceeds with the case, this petitioner would be forced to face an unfair trial and the same is against the essence of criminal jurisprudence and violative of the constitutional safeguards of fair trial and undue prejudice will be caused to this petitioner, if the trial court proceeds with the trial. Further, the investigating officer failed to consider that a civil dispute is sought to be given the colour of a criminal offence to wreak vengeance against the petitioner and the same does not meet the strict proof required to sustain a criminal accusation. Hence prayed to quash the proceedings in C.C.No.206 of 2009 pending on the file of Judicial Magistrate No.II, Hosur and quash the same.



7. The learned Government Advocate submitted that only after thorough investigation the charge sheet has been filed and properties have been recovered from the scene of occurrence and that there has been previous enmity between the parties and several disputes are pending and prayed that all these disputed facts can be decided only by way of trial and prayed that the criminal proceedings cannot be quashed under Section 482 of Cr.P.C.,

8. By way of reply, the learned counsel for the petitioner stated that there are numerous complaints along with photos were filed by the petitioner against the defacto complainant, which would prove that the defacto complainant have demolished all the materials owned by the petitioner and sold the same. All these things were not taken into consideration by police officials and no FIR has been registered and the complaints were closed as 'mistake of fact' and stated that all the police officials are relative to the defacto complainant and prayed that the matter should be quashed. Further the petitioner is not having any power and the defacto complainant had got man and muscle power, who can go to any extent and he further submitted that entire materials have been taken away and sold, which was been investigated by the police and closed as mistake of fact and this complaint is only a false complaint and prayed to quash the same.

10. Heard the learned counsel on either side and perused the documents placed on record.

11. A perusal of the charge sheet would show that the petitioner had attacked the defacto complainant, viz., Anjappa with iron rod on the right side of the forehead, thereby caused simple injuries. Further, on hearing the sound of the defacto complainant, when one sekar, 2nd son of the defacto complainant rushed to the scene, the petitioner attacked him with iron sickle on the wrist of the left hand and on the small finger of the left hand, thereby caused simple injuries to him and hence the petitioner was charged with offence under Section 324 IPC. That apart, the petitioner had threatened the defacto complainant and his son with dire consequences, stating that he would kill the defacto complainant and his son, thereby he was charged under Section 506(ii) of IPC.

12. Further, one Nagaraj, who is arrayed as A.2 had prevented the said Sekar and pulled his right hand and on account of the same, the said Sekar suffered with dislocation of the shoulder, thereby caused grievous injuries, therefore, Sections 341, 325 of IPC were charged against him.



13. The statements have been obtained under Section 161 Cr.P.C., from as many as ten witnesses and from the said statements, it is seen that there was a quarrel between two persons regarding the tenancy and accordingly, there were some disputes between the parties concerned and the same has been corroborated with all the witnesses and the Doctor, who had treated the defacto complainant has stated that the defacto complainant, Anjappa and his son, namely, Sekar were given treatment and opined that injuries sustained by the defacto complainant are simple in nature and the injuries sustained by the son of the defacto complainant, viz., Sekar are grievous in nature. That apart, the police has recovered one rod, which is one foot length and 1 inch width and one sickle, $\frac{3}{4}$ feet length from the scene of occurrence.

14. It is to be noted that the Hon'ble Apex Court in the case of A.V.Mohan Rao and Another Vs. M.Kishan Rao and Another reported in (2002) 6 SCC 174 held that powers under Section 482 of Cr.P.C., should be exercised sparingly with circumspection, that too in rarest of rare cases and it was held that if prima facie offence is made out, complaint cannot be quashed.

15. In the present case on hand, the statements, charge sheet as well as the allegations made in the complaint, do clearly constitute a serious offence justifying the registration of a case. Further, investigation is completed, charge sheet has been filed and the same is taken on file and this case does not fall under any one of the categories of cases formulated for the exercise of extraordinary or inherent powers of this Court to quash the FIR itself. That apart, as far as the contention of the learned counsel for the petitioner that the defacto complainant had demolished the materials / properties [which is evident from the statement recorded by various persons under Section 164 Cr.P.C., in Crime No.6 of 2013] are concerned, all the said aspects cannot be gone into by this Court at this stage and it is open to the petitioner to raise all these aspects before the trial court.

In view of the above, the present Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



ssd
To

1. The Judicial Magistrate No.II,
Hosur
 2. -do Thro- The Chief Judicial Magistrate,
Krishnagiri.
 3. Inspector of police,
Hosur Town Police Station,
Hosur
 4. The Public Prosecutor,
High Court, Madras
- +1 CC to M/s.N.Elayaraja, Advocate, Sr.No. 45305.

Crl.O.P.No.20298 of 2015
and
M.P.Nos.1 and 2 of 2015

GP(CO)
LS(24/09/2021)