



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1. O.P. No.4476 of 2017
and
CRL.M.P.No.3347 of 2017

V.S.Ekambaram

...Petitioner

Vs.

1. The State,
Represented by Inspector of Police,
Sivakanchi Police Station, Kancheepuram.
(Crime No.781 of 2016).
2. Mahant Basant Dass Bavaji,
Panjayith Akkada Pada Udhasin Bavaji Madam,
Also known as Sivakanchi Udhasi Madam
and Udhasin Bavaji Madam,
32H/33,Nellukara Street,
Annai Indira Gandhi Road,
Big Kancheepuram-631 502.

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records culminating in Crime No.781 of 2016, pending on the file of the Sivakanchi Police Station, Kancheepuram and quash the same.

For Petitioner : Ms.Arun Anbumani

For Respondents : Mr.S.Vinoth Kumar
for Public Prosecutor for R1

: No appearance for R2

ORDER

The petitioner, who is an accused in Crime No.781 of 2016 for the offences under Sections 143, 447, 506(1) IPC r/w 3(1) of TamilNadu Property (Prevention of damage and Loss)Act, in short ("TNPPDL Act") has filed this quash petition.



2.It is the contention of the learned counsel for the petitioner that the entire allegation relates to civil dispute. The petitioner herein is a tenant and he was in possession of the property. He has already filed a Civil Revision Petition in C.R.P.Nos.2509 and 2950 of 2009 against the 2nd respondent and obtained an order of interim stay from this Court whereas this complaint is motivated after one year of the earlier complaint lodged by the petitioner. Further, it is the contention that the complaint has been given before the Director General of Police, not even before the concerned Police Station. Hence, it is the contention that the entire case is nothing but motivated and criminal colour is given in the civil dispute. Hence, prayed for quashing the F.I.R.

3.The learned counsel submitted that there is vagueness in the allegations and in the FIR, only general allegations are made, which is not in dispute. Though there is civil dispute between the parties, on perusal of the FIR, the same indicates that the alleged allegations made against the petitioner for the so called damages said to have been made by the petitioner and others. No details have been given about the alleged occurrence said to have taken place on 17.08.2015. However, the said FIR has been lodged on 05.10.2016, after one year of earlier complaint. He further submitted that the entire allegation in the FIR is general in nature and there is no specific overt act and what was mentioned in the FIR is only an alleged attempt.

4. Learned counsel for the petitioner relied upon the judgment reported in (2014) 13 SCC 553 in the case of Rashmi Jain Vs.State of Uttar Pradesh and another. It is relevant to extract Paragraph No.10, which reads as under:

10. Again in G.Sagar Suri V. State of U.P., this Court observed as follows:

"8. Jurisdiction under Section 482 of the Code has to be exercised with great care. In exercise of its jurisdiction the High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends



of justice."

From the above finding of the Hon'ble Apex Court, this Court can exercise its power under Section 482 of Cr.P.C to quash the FIR.

5. On perusal of the entire complaint, this Court is of the view that the dispute is civil in nature, which is not disputed, further, there is no specific overt act made in respect of damages, at this stage, continuing the prosecution is nothing but futile exercise and abuse of process of law.

6. In the facts and circumstances of the case, the proceedings in Crime No.781 of 2016, pending on the file of the Sivakanchi Police Station, Kancheepuram for the offences under Sections 143, 447, 506(1) IPC r/w 3(1) of Tamil Nadu Property (Prevention of damage and Loss) Act is quashed and accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Inspector of Police,
Sivakanchi Police Station,
Kancheepuram.
2. The Public Prosecutor
High Court, Madras.

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and
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PL(CO)
SU(02/12/2021)