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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 11754 of 2017
and
CrI.M.P.Nos.7696 & 7696 of 2017

S.A.G.Ramasamy Nadar,
S/o. Gurusamy Nadar

... Petitioner

Versus

Prema,
W/o. Perumal

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in C.C.No.80 of 2017 on the file of Judicial Magistrate, Cheyyar and to quash the same.

For Petitioner : Ms.Elizabeth Ravi

For Respondent : Mr. V.R.Appaswamee

O R D E R

This Criminal Original Petition has been filed to quash the private complaint filed against the petitioner for an alleged offence under Sec.468, 447 and 427 I.P.C., which was taken on file by the learned Judicial Magistrate, Cheyyar in C.C.No.80 of 2017.

2. The crux of allegation in the complaint is that the petitioner is the owner of adjoining lands to an extent of 1.84 acres, whereas, the respondent/defacto complainant is the owner of 5 cents. The respondent/defacto complainant had filed a suit for declaration and injunction in respect of his 5 cents and similarly, the petitioner herein also filed a suit seeking for an injunction for an extent of 1.84 acres. The trial court has granted decree in favour of petitioner in respect of 1.84 acres,



which was also confirmed in A.S.No.326 of 2001. However, it is the contention of respondent/defacto complainant that decree before the trial court was obtained fraudulently by not placing proper facts and his further contention indicates that the accused under the pretext of the decree frequently visited the property of the respondent/defacto complainant and causing mental agony, thereby, he has been prosecuted for the offence under Sec.468, 447 and 427 I.P.C.

3. Ms.Elizabeth Ravi, learned counsel appearing for petitioner would submit that the private complaint is nothing, but abuse of process of law and already the trial court has granted decree in favour of petitioner in respect of his land i.e. an extent of 1.84 acres. Similarly, the declaration in respect of 5 cents is also granted in favour of respondent/defacto complainant. Therefore, the present complaint has been filed only to undue the decree and judgment, which was already confirmed in the appeal. Hence, she prayed for quashing the complaint.

4. Mr.V.R.Appaswamee, learned counsel appearing for respondent would submit that though the respondent/defacto complainant is in possession of 5 cents as declared by the trial court, but still the petitioner is trying to encroach upon the property. Therefore, he opposed to quash the complaint.

5. Heard submissions of both learned counsel appearing for petitioner as well as respondent.

6. Perused the entire private complaint. In the complaint, the allegations appears to be as against the decree and judgement in respect of 1.84 acres in favour of petitioner in O.S.No.196 of 2002 and further allegation is that suppressing the material facts, the decree has been obtained. It is relevant to note that the decree and judgement granted by the trial court has been upheld in the appeal, which is also not disputed. Similarly, the declaration in respect of 5 cents granted in favour of respondent/defacto complainant and the same was also confirmed in the appeal, which is also not in dispute. However, the learned counsel appearing for respondent would submit that the respondent is in possession of 5 cents as declared in a civil suit.

7. In such view of the matter, the allegation made in a private complaint is nothing, but abuse of process of law. It is, in fact, if allowed to continue, the same will lead to serious consequences to undue the judgement of the competent civil court. In such view of the matter, this court is inclined to quash the proceedings initiated in C.C.No.80 of 2017, on the file of Judicial Magistrate, Cheyyar. Accordingly, this Criminal



Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Judicial Magistrate,
Cheyyar.

+1cc to M/s.Elizabeth Rani, Advocate, S.R.No.66346

Cr1. O.P. No. 11754 of 2017
and
Cr1.M.P.Nos.7696 & 7697 of 2017

VSN-II (CO)
SU(30/12/2021)