



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

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CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

CRL.O.P.No.23950 of 2017
and
CRL.M.P.Nos.13872 & 13873 of 2017

Susheela Chandran ... Petitioner /2nd Accused
Vs

1. State
rep. By The Inspector of Police
Town Central Circle Police Station
Udhagamandalam. ... 1st Respondent/Complainant

2. Maheshwari ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to the charge sheet in S.T.C.No.4189 of 2016, on the file of the learned Judicial Magistrate, Udhagamandalam and quash the same.

For Petitioner : Mr.L. Mouli

For Respondents : Mr.Vinoth Kumar
Government Advocate (crl.side)
for R1
No appearance for R.2.

O R D E R

This Criminal Original Petition has been filed to quash the charge sheet in S.T.C.No.4189 of 2016, pending on the file of the learned Judicial Magistrate, Udhagamandalam.

2. The crux of the prosecution is that A.1 and A.2 entered into lease Agreement, dated 5/12/2013, for running a hotel under the name and style of Club House Residency. The first respondent, on 13/5/2016, registered a case against the petitioner in Crime No.417 of 2016, for the alleged offence punishable under Sections 171 (E) and 171 (H) of the Indian Penal Code, based on the complaint lodged by the defacto complainant, alleging that



during the assembly election, on 5/3/2016, Income Tax authorities raided the hotel and found five pages of accounts details regarding distribution of money to Politicians.

3. Heard the learned counsel appearing for the petitioner and Mr.S. Vinoth Kumar, learned Government Advocate (crl.side) appearing for the first respondent. There is no representation on behalf of the second respondent. Perused the materials available on record.

4. The learned counsel appearing for the petitioner submitted that as per the direction of the Investigation Officer, a complaint has been filed against the owner of the building. Though the prosecution has examined seven witnesses, the alleged materials unearthed by the prosecution is that the so called amounts were collected from A.1, who is running the hotel and nowhere it is stated that the building owner/A.2 also participated and actively involved. Therefore, merely because A.2 is the owner, she cannot be prosecuted for the alleged accounts seized from A.1, who is running the hotel.

5. The learned counsel appearing for the petitioner further submitted that she has already leased out the building in the year 2013 in favour of A.1 for running the hotel. To substantiate her case, lease deed is filed in the typed set of papers.

6. Though the validity cannot be gone into at this stage, even from the materials collected by the prosecution, no materials were available as on record to proceed against A.2 except stating that she is the owner of the property. In such a view of the matter, continuation of prosecution against petitioner/A.2 merely on the ground that she is the owner of the building is nothing but a futile exercise and abuse of process of law. Accordingly, report filed against A.2 is quashed.

7. In the result, this Criminal Original Petition is allowed. S.T.C.No.4189 of 2016, pending on the file of the learned Judicial Magistrate, Udthagamandalam, is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar



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1. The Judicial Magistrate, Udhagamandalam
2. The Inspector of Police
Town Central Circle Police Station
Udhagamandalam.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Mouli, Advocate SR.No.61288

CRL.O.P.No.23950 of 2017

SJ(CO)
GN(13/12/2021)