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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.835 of 2017
and
Cr1.M.P.No.7635 of 2017

1.B. Durairaj
Assistant Revenue Officer,
Zone - V,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

2.S. Ramesh,
Tax Collector,
Zone - V, Division - 59,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

.. Petitioners/Respondents

Vs.

1.J.P. Nagabhushanam

2.The Zonal Officer,
Zone - V,
Greater Chennai Corporation,
No.61, Basin Bridge Road,
Chennai - 600 021.

3.The Regional Deputy Commissioner (North),
Greater Chennai Corporation,
Chennai - 600 003.

4.The Revenue Officer,
Greater Chennai Corporation,
Chennai - 600 003.

5.The Deputy Commissioner (Revenue & Finance),
Greater Chennai Corporation,
Chennai - 600 003.

6.The Joint Director,



Internal Audit and Accounts,
Greater Chennai Corporation,
Chennai - 600 003.

7. The Vigilance Officer,
Greater Chennai Corporation,
Chennai - 600 003.

8. The Law Officer,
Greater Chennai Corporation,
Chennai - 600 003.

9. The Commissioner,
Greater Chennai Corporation,
Chennai - 600 003.

10. The Commissioner of Police,
Vepery, Chennai - 600 007.

11. The Inspector of Police,
H-1, Mint Police Station,
Old Washermanpet,
Chennai - 600 021.

.. Respondents

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records in M.P.No.2202 of 2016 on the file of the XV Metropolitan Magistrate, George Town, Chennai and quash the impugned order dated 16.03.2017 passed therein.

For Petitioners: Mr.J. Ashok

For Respondents: Mr.R. Vinoth Raja,
Government Advocate

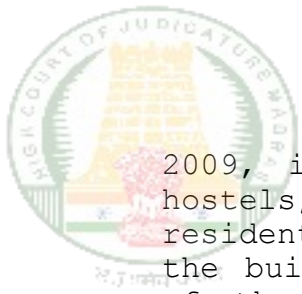
O R D E R

The matter is heard through "Video Conference".

2. The petitioners 1 and 2 are the Assistant Revenue Officer and Tax Collector respectively of the Greater Chennai Corporation, Chennai.

3. The brief facts of the case are as follows:-

(i) An article was published in the news Daily Dinamalar in the gossip column called Tea Kadai Bench in respect of the reversion of assessments made in Zone V of the Greater Chennai Corporation for the mansion buildings from Commercial Assessments to Residential Assessments on 04.05.2016 and some other dates. It was stated in the article that in the year



2009, it was proposed to modify the assessments of mansions, hostels, guest house and serviced apartments buildings as "Non-residential tenant" buildings from "Residential Buildings" since the buildings were used for commercial purposes. The approval of the council was obtained vide Resolution No.288/2009 and based on the said resolution, the buildings used for Mansion, Hostel, Guest House and Serviced Apartments had been modified as "Non-residential tenant" i.e., "Tenant Commerical" buildings and the assessment orders were served to the owners of the buildings.

(ii) The owners of the Mansions, more particularly in the Triplicane area had challenged the above said Resolution No.288 of 2009 in a batch of Writ Petitions in W.P.No.4179 of 2011 and batch before the Hon'ble High Court, Madras. The Hon'ble Madras High Court by an order dated 21.09.2011 in the above said batch of Writ Petitions had set aside the said Resolution No.288 of 2009 on the ground that the procedures contemplated under Section 98-A and 100 of the C.C.M.C., Act and to issue fresh orders.

(iii) As against the above said order in the above said batch of writ petitions, the Chennai Corporation had preferred Writ Appeals in W.A.No.1333 of 2014 and batch. The Hon'ble Division Bench of this Court by an order dated 21.11.2014 had declined to take a different view in the matter and had confirmed the order made in the above said W.P.No.4179 of 2011 and batch, with a liberty to the Chennai Corporation to issue notices to the assesses to change the classification as "tenant commercial" instead of "tenant occupation".

(iv) The Mansion Owners had approached the Chennai Corporation with a request to revise the assessments as "Residential Tenant". Pending the above said Writ Petition and Writ Appeal, the Mansions had not paid any taxes to the Chennai Corporation which resulted in arrears.

(v) The first respondent who is alleged to be running a magazine in the name of "Jana Pathrikai" had for his own publicity to enrich himself had preferred a complaint dated 27.05.2016 and 30.05.2016 before the Tamil Nadu Local Bodies Ombudsuman, Guindy, Chennai, to initiate appropriate action against the alleged illegality caused by the concerned authorities and consequently preferred a complaint before the learned XV Metropolitan Magistrate, George Town, Chennai.

(vi) It appears from the records that a detailed enquiry was conducted by the Tamil Nadu Local Bodies Ombudsman, Chennai and subsequently the matter has been posted. At this juncture, the first respondent herein had initiated a parallel proceedings before the learned XV Metropolitan Magistrate, George Town,



Chennai, under Section 200 of Cr.P.C., in which the first respondent had not submitted all the documents concerned with the above case and had managed to obtain an order behind the back of the petitioners herein and the learned Judicial Magistrate had passed an order observing that prima facie some violation as alleged by the complainant. Hence, the complaint is forwarded under Section 156(3) Cr.P.C., to Station Head Officer, to investigate the case as per law. The said order was challenged.

4. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents and also perused the order passed by the Tamil Nadu Local Bodies Ombudsuman and also the affidavit filed by the complainant and the petitioners herein before the said Ombudsuman.

5. I find that the observation made by the learned Magistrate that he has come to the conclusion that there was some prima-facie some violation is improper. He is simply carried on only on the averment made in the complaint and certain documents filed thereon. Two rounds of litigations on judicial side of this Court in writ petition and writ appeal were disposed of as arrived above. I find that the petition is filed under Section 200 of Cr.P.C., and he has also enclosed certain documents with regard to assessment.

6. After perusing the petition filed before the first respondent, I find that the learned Magistrate has committed an error in observing that some prima-facie case is made out of some violation. Allegations made in the complaint do not prima-facie constitute any offence falling under any provision of law. As such, I find that there is no material available in the respondent complaint, which shows that the present petitioners herein are guilty of the alleged offence. The entire complaint appears to have stemmed from an article published in a Tamil Daily.

7. After perusing the averment, I find that the complaint is based on assumption and presumption, as such there are baseless allegation. Furthermore, no offence is constituted in the nature of criminal offence for investigation by the registration of FIR. Two orders had already been passed by this Court in W.P and W.A., as mentioned above and hence, I find that the order passed by the learned Magistrate is not in consonance with the dictum laid down by the Hon'ble Supreme Court in Lalitha Kumari Case and Sugesan Transport case. Hence, I find that the order passed by the trial Court is liable to be set aside and accordingly the same is hereby set aside. The complaint filed by the first respondent stands dismissed. The explanation offered by the learned Judicial Officer is hereby taken on record and stands closed.



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8. Accordingly, criminal revision petition is allowed.
consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

- 1.The Zonal Officer,
Zone - V, Greater Chennai Corporation,
No.61, Basin Bridge Road, Chennai - 600 021.
- 2.The Regional Deputy Commissioner (North),
Greater Chennai Corporation, Chennai - 600 003.
- 3.The Revenue Officer,
Greater Chennai Corporation,
Chennai - 600 003.
- 4.The Deputy Commissioner (Revenue & Finance),
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Old Washermanpet, Chennai - 600 021.
- 11.The XV Metropolitan Magistrate, George Town,
Chennai.

+1cc to M/s.J.Ashok, Advocate, S.R.No.31081

CrI.R.C.No.835 of 2017 and
CrI.M.P.No.7635 of 2017

PVS (CO)
SB(09/08/2021)