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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 16.02.2022	Orders pronounced on 25.02.2022
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CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.1085, 1131 & 3824 of 2016,
and 7498 & 10579 of 2017
and all Connected Crl.M.Ps.

Crl.O.P.No.1085 of 2016

1. N. Mohan
2. Anbarasi
3. Srinivasan

... Petitioners

Vs.

1. State by
Inspector of Police
E-1 Mylapore Police Station
Chennai - 600 004.
(Crime No.1333/2015)

2. Veerasekar

... Respondents

This Crl.O.P.No.1085 of 2016 is filed under Section 482 Cr.P.C. to call for the records in C.C.No.5193 of 2015 on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.P.L.Narayanan
For Respondent-1 : Mr.R.Murthi
Government Advocate (Crl. Side)

For Respondent-2 : Mr.M.Kempraj

Crl.O.P.No.1131 of 2016

1. N. Mohan
2. Anbarasi
3. M.Lavanya

... Petitioners

Vs.



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1. State by
Inspector of Police
E-1 Mylapore Police Station
Chennai - 600 004.
(Crime No.1698/2015)

2. Kavitha

... Respondents

This CrI.O.P.No.1131 of 2016 is filed under Section 482 Cr.P.C. to call for the records in C.C.No.5194 of 2015 on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners	: Mr.P.L.Narayanan
For Respondent-1	: Mr.R.Murthi
	Government Advocate (CrI. Side)
For Respondent-2	: Mr.M.Kempraj

CrI.O.P.No.3824 of 2016

V.Veerasekar

... Petitioner

Vs.

Anbarasi

... Respondent

This CrI.O.P.No.3824 of 2016 is filed under Section 482 Cr.P.C. to call for the records and quash the private complaint in C.C.No.3168 of 2015 on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner	: Mr.M.Kempraj
For Respondent	: Mr.P.L.Narayanan

CrI.O.P.No.7498 of 2017

1. K.Muthukumar
2. R.Kannaiya
3. K.Muthulakshmi
4. R.Sutha

... Petitioners

Vs.

N.Mohan

... Respondent

This CrI.O.P.No.7498 of 2017 is filed under Section 482 Cr.P.C. to call for the entire records and quash the proceedings in C.C.No.900 of 2017 pending on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai-15, with respect to petitioners/accused No.4 to 7.



For Petitioners : Mr.M.Kemp raj
For Respondent : Mr.P.L.Narayanan

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Crl.O.P.No.10579 of 2017

1. V.Veerasekar
2. V.Kavitha

... Petitioners

Vs.

N.Mohan

... Respondent

This Crl.O.P.No.10579 of 2017 is filed under Section 482 Cr.P.C. to call for the records and quash the proceedings in C.C.No.900 of 2017 pending on the file of learned XVIII Metropolitan Magistrate, Saidapet, Chennai-15, with respect to petitioners/accused No.1 and 2.

For Petitioners : Mr.M.Kemp raj
For Respondent : Mr.P.L.Narayanan

COMMON ORDER

These five cases are interconnected with each other.

2. Crl.O.P.Nos.7498 of 2017 and 10579 of 2017 have been filed to quash the proceedings in C.C.No.900 of 2017.

3. C.C.No.900 of 2017 was filed on the basis of complaint given by Mr.N.Mohan against Mr.V.Veerasekar and 6 others. Petitioners in Crl.O.P.No.7498 of 2017 are accused 4 to 7 and petitioners in Crl.O.P.No.10579 of 2017 are accused 1 and 2 in C.C.No.900 of 2017.

4. The brief facts leading to filing of C.C.No.900 of 2017 are as follows:-

Complainant Mohan's wife Anbarasi entered into an agreement of sale with first accused Veerasekar on 05.02.2014 for selling the ground floor in D.No.16-A, Desikachari road, Alwarpet, Chennai, for a sum of Rs.8,00,00,000/- (Rupees eight crores only). Accused Veerasekar availed bank loan for purchasing the property and at his request, two more agreements were entered for Rs.4crores and Rs.3.5crores. On 05.03.2014, the guideline value of the property was Rs.3.5crores. The bank permitted only Rs.2.5crores as loan to the first accused. Therefore, first accused persuaded complainant's wife Anbarasi to execute a sale deed for Rs.3.5crores and promised to pay the original sale consideration of Rs.8crores. The sale deed was executed on



28.04.2014. After the execution of sale, Veerasekar evaded paying the balance sale consideration of Rs.3.5crores and without paying the balance, he threatened to disposses the complainant and his family members. A complaint was given to E1, Mylapore police station and it was registered in CSR No.1211 of 2014. His wife Anbarasi filed a suit in O.S.No.5056 of 2014 on the file of City Civil Court, Chennai. On 02.12.2014 at about 6.30 p.m, when the complainant was inside his house along with his wife and servant maid, accused came with deadly weapons, trespassed into the house and attacked the complainant. Veerasekar threatened the complainant at the knife point that he would do away the life of the complainant, if he did not vacate the house. He tried to stab the complainant on his chest. Second accused Kavitha dragged the hair of Anbarasi and abused her in filthy language. They all assaulted Anbarasi. When the servant maid Ayyavu tried to intervene, all the accused assaulted him. All the accused destroyed the properties in the house of the complainant. Third accused Sundhar beat the complainant on his back. Accused had taken away house hold properties and damaged the properties worth Rs.68,000/-. First accused abetted the other accused to attack the complainant and his family members, if they obstruct to vacate the building. A complaint was given in Mylapore police station on 02.10.2014 and the receipt was given. The police has not taken any further steps on the complaint. Therefore, this complaint was filed for the offences punishable under Sections 147, 148, 447, 448, 452, 454, 341, 323, 294(b) and 506 (ii) IPC.

5. CrI.O.P.No.3824 of 2016 is filed for quashing C.C.No.3168 of 2015. This case was filed on the basis of private complaint given by Anbarasi against V.Veerasekar and Ravi. The case in brief of the complaint in this case, is as follows:-

6. This complaint refers about the sale agreement between Anbarasi and Veerasekar, complaint given and registered as CSR No.1211/2014 and also the suit in O.S.No.5056 of 2014 filed by Anbarasi. When these proceedings are pending, it is submitted that, on 13.10.2014 at about 2.45 p.m, when Anbarasi was standing in her house, Veerasekar and his wife attempted to disposses the complainant and abused her in filthy language with criminal intimidation to kill her. Accused tried to stab her, when she tried to thwart the attempt, he suffered injury in her right hand index finger. She was treated as outpatient at Royapettah hospital. On 23.12.2014, Veerasekar, his wife and one Ravi harassed the complainant in front of BSNL Telephones. Accused scolded her as a bitch. She informed the police by dialling 100. On the advice of police, she gave complaint to E1, Mylapore police station. CSR No.1947 of 2014 dated 23.12.2014 was registered. Accused removed protective cameras



installed for monitoring the movements of accused on 15.12.2014. Hence, CSR No.1901 of 2014 was registered on the basis of the complaint dated 17.12.2014. For outraging the modesty of the complainant, accused are liable to be punished under Section 4 of Tamil Nadu Prohibition of Women's Harassment Act, 1988. Pendency of the complaints for the incidents dated 13.10.2014, 15.10.2014 and 23.12.2014 are not a bar to file this complaint. Therefore, this complaint. Veerasekar has filed Crl.O.P.No.3824 of 2016 to quash the case in C.C.No.3168 of 2015.

7. Crl.O.P.No.1085 of 2016 is filed to quash the proceedings in C.C.No.5193 of 2015. This case was registered on the basis of the complaint given by Veerasekar in Crime No.1333 of 2015 of E1, Mylapore Police Station under Sections 451, 427 and 506(i) IPC. FIR was registered on the basis of order passed by this Court in Crl.O.P.No.6797 of 2015. Again, the sale agreements between Anbarasi and Veerasekar, payment of amount etc., are referred in the complaint. It is the case of Veerasekar that the sale consideration was fixed as Rs.3,50,00,000/- (Rupees three crores and fifty lakhs only). He paid a sum of Rs.1,00,00,000/- (Rupees one crore only) as advance on 05.03.2014. Balance sale consideration of Rs.2,50,00,000/- (Rupees two crores and fifty lakhs only) was paid on 28.04.2014 and the sale deed was executed. From the date of execution of sale deed, the property was in possession and enjoyment of Veerasekar. The accused Mohan, Anbarasi, Srinivasan, Devan and Bala, especially, Anbarasi demanded that he should pay additional amount. She had also filed a suit before City Civil Court and that ended in favour of Veerasekar. She appointed a watchman. When he had gone out of station and he returned on 02.10.2014 and tried to open the gate, she made the watchman to give a false complaint against him under Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act. He got anticipatory bail in that case. From two days prior to 17.02.2015, accused were trying to encroach into the ground floor portion and preventing the renovation work undertaken by Veerasekar. They also damaged the materials worth Rs.50,00,000/- gathered for the purpose of renovation. They were threatening to kill him and his wife. Therefore, the complaint. After investigation, final report was filed in this case and the case was taken cognizance in C.C.No.5193 of 2015. Now, Mohan, Anbarasi and Srinivasan filed this petition to quash the case in C.C.No.5193 of 2015.

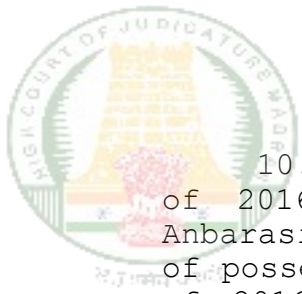
8. Crl.O.P.No.1131 of 2016 is filed to quash the case in C.C.No.5194 of 2015. This case was registered on the basis of the complaint given by Kavitha, w/o. Veerasekar. The case of Kavitha is that she married Veerasekar in 2014. They have first floor in Door No.16A, Lady Desika Road, Alwarpet, Mylapore, which was purchased by Veerasekar in 2011 from Mayavathi. He



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had also purchased ground floor from Mohan and his wife Anbarasi in 2014. After purchasing the property from Mohan and Anbarasi in 2014, he was renovating the house. Marriage between her and her husband Veerasekar is an intercaste marriage and was not accepted by their family members and therefore, they are living in the house, without the support of family members. Taking advantage of this, Mohan and Anbarasi have been repeatedly harassing them demanding money. They gave a false complaint in 2014, filed a civil case and tried to take possession of the property forcibly. Then, they criminally trespassed into the house, damaged the properties and threatened to kill them. A case in Crime No.1331 of 2015 registered under Sections 451, 427 and 506(i) is pending. When that be so, on 27.02.2015 at about 2 pm, when Kavitha was about to go in a two wheeler, accused Mohan, Anbarasi and Lavanya wrongfully restrained her, scolded her in filthy language and threatened to abduct her and her husband and murder them. Therefore, this case was registered on the basis of complaint in Crime No.1698 of 2015 under Sections 341, 294(b) and 506(i) IPC. Accused in this case have filed CrI.O.P.No.1131 of 2016 for quashing the case in C.C.No.5194 of 2015.

9. From the facts narrated above in all the cases in C.C.Nos.900 of 2017, 3168 of 2015, 5193 of 2015 and 5194 of 2015, the main dispute between the parties is the purchase of ground floor portion in Door No.16A, Desikachari Road, Alwarpet, Chennai. It is not in dispute that Anbarasi is the owner of ground floor in Door No.16A, Desikachari Road, Alwarpet, Chennai. It is also not in dispute that Anbarasi and Veerasekar have entered into a sale agreement in respect of the purchase of ground floor. Anbarasi offered to sell the property and Veerasekar agreed to purchase the ground floor. The issue here is what is the sale consideration. Anbarasi claims that the sale consideration was Rs.8,00,00,000/- (Rupees eight crores only), whereas Veerasekar claims that the sale consideration was Rs.3,50,00,000/- (Rupees three crores and fifty lakhs only). He claims that he paid Rs.1,00,00,000/- (Rupees one crore only) as advance and Rs.2,50,00,000/- (Rupees two crores and fifty lakhs only) at the time of execution of sale deed and therefore, he become the owner of ground floor portion. Anbarasi claims that the sale consideration was Rs.8,00,00,000/- (Rupees eight crores only), but for the reason that the bank promised only a loan of Rs.2,50,00,000/- (Rupees two crores and fifty lakhs only), the sale agreement was entered into for a sum of Rs.3,50,00,000/- (Rupees three crores and fifty lakhs only). There is one more sale agreement for Rs.4,00,00,000/- (Rupees four crores only) executed on the same date on 05.03.2014. Apart from the issue as to the quantum of sale consideration, there is another issue as to who is in possession of the property in dispute ie., ground floor portion. Both claim to be in possession of the property.



10. From the typed set of papers filed in Crl.O.P.No.1085 of 2016, it is seen that Veerasekar filed a suit against Anbarasi in C.S.No.187 of 2016 in this Court seeking the relief of possession, damages etc. Anbarasi filed a suit in C.S.No.414 of 2016 against Veerasekar and his wife Kavitha seeking the relief of direction to the defendants to pay a sum of Rs.4,41,09,401/- being the sale consideration along with interest and in the alternative to cancel the sale deed dated 28.04.2014. Now, it is clear from the suit filed in C.S.No.187 of 2016 that Veerasekar is not in possession of the property in dispute. It is claimed in that suit that Anbarasi trespassed into the suit property on 17.02.2015. Though it is claimed that the trespass had happened on 17.02.2015, the suit was filed only in 2016, especially in March 2016. Learned counsel appearing for the petitioners in Crl.O.P.No.1085 of 2016 and 1131 of 2016 submitted that there is a discrepancy in the date of alleged trespass by Anbarasi. In the charge sheet filed in C.C.No.5193 of 2015, it was alleged that two days prior to 17.02.2015, Mohan, Anbarasai and others have trespassed into the disputed property. In a civil suit filed by Veerasekar, it was claimed that accused trespassed on 17.02.2015. In Crl.O.P.No.25680 of 2014 filed by Veerasekar, it was mentioned that when he came from his native on 09.09.2014, he found that Anbarasi and her husband were in illegal occupation of the premises sold to Veerasekar. Thus, he submitted that a civil litigation with regard to sale of ground floor property in Door No.16A, Desikachari Road, Alwarpet, Chennai, is converted as criminal cases to harass each other.

11. Learned counsel appearing for the petitioners in Crl.O.P.Nos.3824 of 2016, 7498 of 2017 and 10579 of 2017 submitted that private complaints have been instituted against his clients only to harass them. He is also of the view that the opponents are misusing the criminal procedure for instituting private complaint cases to settle scores in the civil case. This Court is also of the same view that due to the dispute arose out of the purchase of ground floor portion in Door No.16A, Desikachari Road, Alwarpet, Chennai, the parties have filed police cases and private complaint cases against each other and wasting not only their time, but also the precise time of the Court.

12. For instance, a bare look at the private complaint filed in C.C.No.900 of 2017 shows that there is no specific overt act attributed against A4 to A7, the petitioners in Crl.O.P.No.7498 of 2017. Only a vague and general allegations are made against A4 to A7. So is also the case in C.C.No.3168 of 2015 filed by Anbarasi. Despite the complaint given for the alleged incidents on 13.10.2014, 15.10.2014 and 23.12.2014, it seems that she has not contended with that, and filed this case



under Sections 3 and 4 of the Tamil Nadu Prohibition of Women's Harassment Act. It is nothing but an abuse of process of law. The private complaint cases are drafted by legal brains by incorporating necessary ingredients to constitute an offence. Private complaints forwarded under Section 156(3) of the Criminal Procedure Code, in most of the cases, are exaggerated manifold just to fit into certain penal provisions, thereby to make out a case. Exaggerations, embellishments, improvements, suppressions are common in a private complaint. Truth is a casualty here.

13. Perusal of the final report in C.C.No.5193 of 2015 and 5194 of 2015 instituted on the basis of the complaints given by Veerasekar and his wife shows that the main issue is the dispute arose out of the sale of ground floor portion. Case in C.C.No.5193 of 2015 was registered for the offence under Sections 451, 427 and 506(i) IPC and the case in C.C.No.5194 of 2015 was registered for the offence under Sections 341, 294(b) and 506(i) IPC. These kind of allegations can be made by any one against any body. As already stated, the allegations in police reports and private complaints have been made only to see that the other party comes to terms in the civil dispute between the parties in connection with the sale of the disputed property. All these complaints are motivated complaints giving exaggerated and imaginary account of alleged criminal incidents. As already stated, the parties have already filed civil suits for enforcing their right. When the civil suits are already instituted and pending, the continuance of these criminal proceedings will be the criminal waste of time and energy of the parties and also the Court. Therefore, all the four cases in C.C.Nos.5193 of 2015, 5194 of 2015, 3168 of 2015 and 900 of 2017 on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai are quashed.

14. In fine, all the five Criminal Original Petitions in CrI.O.P.Nos.1085 of 2016, 1131 of 2016, 3824 of 2016, 7498 of 2017 and 10579 of 2017 are allowed. Consequently, connected Miscellaneous Petitions are closed.

mra

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar



To

1. The XVIII Metropolitan Magistrate,
Saidapet
Chennai.

2. The Inspector of Police
E-1 Mylapore Police Station
Chennai - 600 004.

3. The Public Prosecutor,
Madras High Court,
Chennai.

+5 ccs to Mr.M.Kempuraj, Advocate Sr.NO. 13127,13126,
13125,13124, & 13123

Crl.O.P.Nos.1085, 1131 & 3824 of 2016,
and 7498 & 10579 of 2017
and all Connected Crl.M.Ps.

SS (CO)
A.SK(11/03/2022)