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Crl.O.P.No.22035 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.22035 of 2021

M.Mathaiyan

...

Petitioner

versus

1.The State Rep. by
The Inspector of Police,
Rasipuram Police Station.
(Crime No.625 of 2021)

2.Jamunarani

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.625 of 2021 on the file of the Inspector of Police, Rasipuram Police Station and quash the entire proceedings as against the petitioner.

For Petitioner : Mr.A.Mohan

For Respondent No.1 : Mr.A.Damodaran
Additional Public Prosecutor

For Respondent No.2 : Mr.Ali Hasan Khan



ORDER

This Criminal Original Petition has been filed seeking for a direction to quash the F.I.R. in Crime No.625 of 2021 on the file of the first respondent police as against the petitioner.

2. The petitioner is the sole accused in a case registered in the above crime number on the complaint given by the second respondent / *de facto* complainant; the second respondent is known to the accused and she approached the accused for securing a loan by offering her house as security; the accused gave her a loan of Rs.14,00,000/- under security and executed a conditional sale, wherein it was agreed between themselves that after the second respondent paid the loan amount, the accused should execute the re-sale deed in her favour; on 29.05.2021 at about 8.30a.m. the accused and some identifiable and unidentifiable persons came out of her house; when she went and saw inside house, she saw that her main door and the door of her bedroom were broken; she came to know that her gold jewels, silver articles and cash of Rs.4,00,000/- were stolen and other household articles have been taken away; since the accused had stolen the said properties, a complaint has



been given and based on the said complaint, a case has been registered in Crime No.625 of 2021 for the offences under Sections 448, 427 and 380 IPC.

3. The learned counsel for the petitioner submitted that there is a landlord and tenant relationship between the petitioner and the *de facto* complainant and they have disputes between themselves. For a civil dispute, the *de facto* complainant had given a criminal colour. Even before the complaint was filed the petitioner has filed a Rent Control Application before the Rent Controller / District Munsif Court, Rasipuram for eviction. The *de facto* complainant has also filed a memo by stating that the Rent Control Application is not maintainable. A civil suit has also pending between the parties in O.S.No.93 of 2021 on the file of the Sub Court, Rasipuram. Only in view of the earlier civil dispute, the *de facto* complainant had given this criminal complaint and it is a false one.

4. The learned Additional Public Prosecutor appearing for the first respondent police submitted that there are serious allegations made against the petitioner and the pending civil suit cannot be a bar for the



investigation of the criminal case. He further submitted that the civil suit has been filed subsequent to the lodging of the criminal complaint by the second respondent and hence, it cannot be stated that there was a civil dispute between themselves at the time when the complaint was given.

5. The learned counsel for the second respondent also submitted his arguments on the similar lines.

6. On perusal of records, it is seen that even before filing the complaint, an eviction petition was filed by the petitioner in R.C.O.P.No.2 of 2019 on the file of the District Munsif Court, Rasipuram. However, it is not known what had happened to the said Rent Control proceedings. The other suit mentioned by the petitioner in O.S.No.93 of 2021 has been filed subsequent to the complaint.

7. Since the *de facto* complainant had stated that she herself had witnessed the accused and others coming out of her house when she returned from outstation. In the complaint of the *de facto* complainant, she



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has listed the articles which were found to be missing at her home. Since lot of facts have to be enquired on the complaint given by the *de facto* complainant, I feel it is appropriate to direct the first respondent police to continue his investigation and complete the investigation in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations, this Criminal Original Petition stands dismissed.

18.11.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

1.The State Rep. by
The Inspector of Police,
Rasipuram Police Station.

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

R.N.MANJULA, J.



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