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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 25783 of 2017
and Crl.M.P.Nos.14858 & 14859 of 2017

1.Habibulla
2.Nazar
3.Jamruthi
4.Jubaida

... Petitioners/Accused 1 to 4

Versus

Umera

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to S.T.C.No.156 of 2016, on the file of the learned Judicial Magistrate, Rasipuram and quash the same.

For Petitioners : Mr.S.Sounthar
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in S.T.C.No.156 of 2016 on the file of the learned Judicial Magistrate, Rasipuram for the offence under Sections 307, 506(ii) r/w. Section 4 Tamilnadu Prohibition of Harassment of Woman Act, 2002.

2. The crux of the complaint is that the de facto complainant's father and his brother had purchased a property to an extent of 2178 Sq.ft. Thereafter, the father of the de facto complainant gave his property in oral gift on 15.01.2003, whereas, the petitioner herein claiming right over the property, made an attempt to create an encumbrance over the property. On 05.11.2012, the petitioner in order to convert a civil dispute into a criminal case, preferred a false complaint against his brother as if he abused her in abusive language. Thereafter, the defacto complainant and her brother appeared before Police and admitted that the dispute between them is in nature of civil dispute. She also gave a written undertaking that she would not amplify the situation and requested the Police to close the complaint. After that, she preferred a private complaint on the same set of facts on 09.10.2013 for the aforesaid offence, which



was taken on file by the learned Judicial Magistrate in C.C.No.71 of 2014.

3. The learned counsel appearing for the petitioners submitted that the de facto complainant is none other than the cousin of the first petitioner. She claims the property on the basis of the oral gift from her father in the year 2003. Whereas, the subject property was already transferred by way of registered sale deed dated 28.11.2005 in favour of his brother and 4th petitioner's husband. The defacto complainant has falsely claimed that she got the property by way of oral gift and she also filed a Civil Suit in P.O.P.No.1 of 2012 as pauper and prayed for declaration of title based on oral gift. On 19.11.2012, she herself given a statement in the Police station that she will not proceed further and she will await for the decision of this Court and again similar allegations have been pressed into service in C.C.No.71 of 2014, the same was quashed by this Court in Crl.O.P.No.28141 of 2015 vide order dated 06.12.2021. Thereafter, the similar omnibus allegations have been targeted against these petitioners with the sole aim of coercing the petitioner. Therefore, the entire private complaint is nothing but abuse of process of law and motivated one. Hence, he prayed to quash the entire proceedings.

4. Despite the notice served and name being printed in the cause list, none appeared on behalf of the defacto complainant.

5. This Court has perused the entire materials available on record. The allegations in the complaint are only general in nature. It is rightly pointed out by the learned counsel appearing for the petitioners that on 19.11.2012, the complaint has been made against his brother for abusing her in filthy language, the same has been closed by police as a mistake of fact. She herself given a statement to the police that she will not give any complaint, which is also available on record. Whereas, private complaint has been filed with the same allegations in C.C.No.71 of 2014, the above complaint also quashed by this Court in Crl.O.P.No.28141 of 2015 vide order dated 06.12.2021. The allegation in the above complaint is of the similar nature, except stating that some abusive words were spoken, the criminal complaint has been targeted against the family members and relatives. From the conduct of the de facto complainant from the very inception clearly indicates that repeated filing of the Police complaint is only in order to claim right over the property said to have been given to her by way of oral gift given by her father, whereas, the petitioners herein are claiming the right over the same property on the basis of the registered document. The allegations in the present complaint are similar, omnibus and general in nature. From the



year 2012, the same allegations have been pressed into service and at the same time, it clearly indicates that this case is nothing but motivated and the complaint has been filed only in civil dispute to wreck out of vengeance.

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6. With the above observation, this court finds that very lodging of the complaint is to take vengeance against the petitioner in respect of a civil dispute. Hence, such prosecution cannot be continued against the petitioners and the same is quashed.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.156 of 2016, on the file of the learned Judicial Magistrate, Rasipuram is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Judicial Magistrate,
Rasipuram.

2. -Do thro The Chief Judicial Magistrate, Namakkal.

+1cc to Mr.S.Sounthar, Advocate, S.R.No.5377

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SV(CO)
CT 16/02/2022