

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32000 of 2014

And

M.P.No.1 of 2014

D.Madhavan

... Petitioner

Vs.

1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

2. N.S.Nagalingam

3. G.Tamil Selvi

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring the entire proceedings initiated against the petitioner in Crime No.1131/2014 dated 27.11.2014 by the second respondent at the instance of the third respondent as illegal, void and without jurisdiction.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.A.Anandan
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Declaration declaring the entire proceedings initiated against the petitioner in Crime No.1131/2014 dated 27.11.2014 by the second respondent at the instance of the third respondent as illegal, void and without jurisdiction.

2.This Court perused the entire materials available on record. Perusal of the F.I.R. reveal that the defacto complainant's father - in - law had sold a portion of his land i.e., 0.10 cents of land in S.No.137/1 in Kannivakkam Village, Chengleput Taluk, Kancheepuram District, to one Ponnammal vide sale deed bearing document no.811/1977. Thereafter, his son/ defacto complainant's husband inherited the property and settled the same in favour of his wife/ defacto complainant. Whiles, the defacto complainant and her husband started to live in Surapet Village on account of employment and during their absence in the Kannivakkam Village, the petitioner who is the legal heir of the said Ponnammal is alleged to have created forged document as though 0.25 cents of land were sold and also started raising compound wall in the defacto complainant's property. When the same was questioned by the defacto complainant, the petitioner is alleged to have abused the defacto complainant using filthy language and threatened her with dire consequences. Hence, the defacto complainant had lodged the complaint.

3.It is relevant to extract hereunder the relevant portion of the decision of the Hon'ble Apex Court reported in 1992 AIR 604 (State of Haryana Vs. Bhajan Lal), wherein, the Hon'ble Apex Court had laid down the principles which are required to be taken into consideration by the High Court for quashing the proceedings:

''(i)Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(ii)Where the allegations in the First Information Report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under S.156 (1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the Code.

(iii)Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(iv)Where, the allegations in the FIR, do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of Magistrate as contemplated under S.155(2) of the Code.

(v)Where, the allegations in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(vi)Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(vii)Where a criminal proceeding is manifestly attended with malafide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.''

4.Applying the ratio laid down in the decision cited supra, the prayer sought for in this writ petition cannot be granted. The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

+1cc to the Government Pleader, S.R.No.37680

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And
M.P.No.1 of 2014

NMI (CO)
UMA (21/07/2022)