



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04 .11.2022

PRONOUNCED ON : 25.11.2022

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

WEB COPY

CRL.O.P(MD)No.15680 of 2022

and

Crl.M.P.(MD)No.10331 of 2022

Nathaniel ...Petitioner/ Accused No.1
vs

1.The Deputy Superintendant of Police,
Kanyakumari Sub-Division, Kanyakumari.

2.The State represented by
the Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.

(Cr.No.154/2022)

... Respondents No.1 & 2/ Complainants

3.Chnadraseskaran ... Respondent No.3/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the First Information Report in Cr.No.154 of 2022, dated 13.05.2022 on the file of the Respondent No.1 Police Station under Sections 147, 148, 447, 294(b), 323, 324, 295A, 427, 307 and 506(2) IPC and under Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendments Act, 2015 and to quash the same as illegal.

For Petitioner

: Mr.S.Louis

For R1 and R2

: Mr.B.Nambi Selvan

Additional Public Prosecutor

For R3

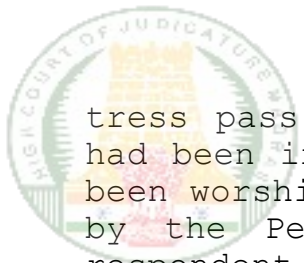
:Mr.P.Sivachandran

ORDER

This Criminal Original Petition has been filed to quash the FIR in Cr.No.154 of 2022, dated 13.05.2022 on the file of the first Respondent.

2.Heard the learned Counsel for the Petitioner, the learned Additional Public Prosecutor appearing for the Respondents 1 and 2 and the learned Counsel for the third Respondent.

3.The learned Counsel for the Petitioner submitted that the Petitioner had purchased a property as per the sale deed dated 30.11.2009. The third respondent is alleged to have attempted to



tress pass into the said property on the ground that they had been in enjoyment of the property and they are alleged to have been worshipping the Idol present in the property, that is purchased by the Petitioner. For the said representation by the third respondent, the Petitioner is alleged to have requested them to remove the Idol to the place of their choice and they have no objections regarding the same. But the third respondent, instead of doing so, had lodged a false case under the guise of SC/ST (Prevention of Atrocities) Act against the Petitioner. Therefore, a case has been registered for the offences under Sections 147, 148, 447, 294(b), 323, 324, 295A, 427, 307 and 506(ii) IPC and under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. Therefore, the Petitioner has approached this Court seeking to quash the FIR. It is the contention of the learned Counsel for the Petitioner herein that the Civil dispute had been converted into a criminal case, only to wreck vengeance on the Petitioner herein, who had not allowed the third Respondent to tress pass into the property purchased by the Petitioner.

4.The learned Additional Public Prosecutor submits that the investigation is completed and final report laid before the Court concerned but not taken on file.

5.The learned Counsel for the third Respondent vehemently objected to the submission of the learned Counsel for the Petitioner stating that already they had registered a First Information Report similarly. Further, he submitted that this is the second occurrence and what are all submitted by the learned Counsel for the Petitioner cannot be considered by this Court, which is the subject matter of the trial. The same can be considered only as valuable defence at the time of recording or assessment of trial.

6.By way of rejoinder, the learned Counsel for the Petitioner submitted that the Petitioner had purchased the property for a valuable consideration. The De-Facto Complainant under the guise of worship and the Idol alleged to have been found in the patta land, which was purchased by the Petitioner through a registered sale deed and who is in enjoyment of the property, without getting permission used to enter the coconut grove. The Petitioner, who is the senior citizen, is alone in the property. His sons and daughters are living in Chennai. Only with an ulterior motive to dispossess the Petitioner from his land, the provision of SC/ST (POA) Act was invoked by registering a false case against the Petitioner.

7.On perusal of the contents of FIR, it is found that as per the FIR, there had been a Temple in existence in the place, which the Petitioner is alleged to have purchased, as per the submission of the learned Counsel for the Petitioner (subject to proof before the Trial Court). Sudalaimada Swami and Isakkiammal Temple belongs to the Chinnar community (identified as SC community), which is 100



years old and worshipped by the third Respondent and his people and their ancestors.

8.It is the contention of the third Respondent/De-Facto Complainant that the Petitioner had encroached the land and demolished the Temple preventing the third Respondent/De-Facto Complainant from entering the property. As per the contention of the Petitioner, he is the owner in possession of the property in S.No.667/8 in Kottaram Village from the original owner as per the sale deed, dated 30.11.2009. The Petitioner had enclosed the sale deed for the property claiming that it is his patta land.

9.As per the contention of the learned Additional Public Prosecutor as well as the learned Counsel for the third Respondent/De-Facto Complainant, there is a dispute with regard to the existing 100 years old temple. The learned Counsel for the Petitioner disputed the temple. As per the submission of the learned Counsel for the Petitioner, it is his patta land purchased on 30.11.2009, from one Subramanian Chettiar. He had also enclosed the copy of the sale deed with specific boundaries.

10.It is the contention of the Petitioner that the Respondents are misusing the provisions of SC/ST (POA) Act. Whether, there was a Temple of Sudalaimada Swami and Isakkiammal and which is worshipped by the people belonging to Sambavar community is a subject matter of evidence which cannot be decided under Section 482 of Cr.P.C. If it is a patta land, the Revenue Department had to enquire into the patta and sale deed, before ever it was transferred in the name of the Petitioner. Section 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendments Act, 2015, involves the property of the SC/ST community having been dispossessed. Therefore, it is for the prosecution to establish it before the Trial Court and when there is rival claims, the Petitioner claims that the third Respondent and his men are attempting to trespass into the property and they are land grabbers, whereas, the FIR contents state that the people belonging to Sambavar community have worshipped in the temple, which is 100 years old. These are subject matter to be decided on evidence before the Trial Court and cannot be considered by this Court.

In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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/12/2022

Sub Assistant Registrar(CS)



cmr/indu/tm

To

1.The Deputy Superintendant of Police,
Kanyakumari Sub-Division,
Kanyakumari.

2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.LOUIS, Advocate (SR-9735[I] dated 07/09/2022)

CRL.O.P(MD)No.15680 of 2022
25.11.2022

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