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CrI.O.P.(MD)No.17047 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 02.11.2022

DELIVERED ON : 23.12.2022

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P.(MD)No.17047 of 2022

- 1.Shanmuganathan
- 2.Shanthi
- 3.Arumugam
- 4.Kandhaiah

... Petitioners

Vs.

- 1.The Assistant Commissioner of Police,
O/o the Assistant Commissioner of Police,
Junction Range, Tirunelveli City.

- 2.The Inspector of Police,
Central Crime Branch,
Tirunelveli City,
(Crime No.1 of 2022)

- 3.Perumbadaiyar

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the Charge Sheet in S.C.No. 105 of 2022 pending on the file of the learned II Additional District and Sessions Court (PCR), Tirunelveli and Quash the same as illegal and pass such further or other orders.

For Petitioners	: Mr.P.Krishnasamy
For R1 and R2	: Mr.A.Robinson
	Additional Public Prosecutor
For R3	: Mr.R.Ramachandran



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ORDER

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This Criminal Original Petition had been filed to call for the records pertaining to the Charge Sheet in S.C.No. 105 of 2022 pending on the file of learned II Additional District and Sessions Judge, Special Court for PCR Act Cases, Tirunelveli, and to quash the same as illegal.

2.The learned Counsel for the Petitioners Mr.P.Krishnasamy argued at length consuming almost the post lunch sessions. After his argument, when the learned Counsel for the third Respondent/De-facto Complainant commenced his argument, the learned Counsel for the Petitioners interfered with the same stating that the learned Counsel for the third Respondent Mr.R.Ramachandran is misleading this Court. He also urged this Court not to hear the learned Counsel for the third Respondent, as he has no *locus standi* to address the Court as he had misused the provisions of the Schedule Caste and Schedule Tribes (Prevision of Atrocities) Act (hereinafter referred to as SC/ST Act for the sake of brevity) and thereby foisting false case against the accused stating that the Accused/Petitioners herein had abused the De-facto Complainant/third Respondent by calling his caste name.

3.It is submitted by the learned Counsel for the Petitioners that the complaint of the third Respondent/De-facto Complainant, based on which



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FIR was registered, contains the averments misinterpreting the order passed by this Court in C.R.P.(NPD)(MD)No.2427 of 2018, in which this Court had set aside the order passed by the learned Principal District Munsif, Tirunelveli, in E.A.No.579 of 2017 in E.P.No.152 of 2010 in R.C.O.P.No.39 of 2008 on 14.09.2018. It has been registered by invoking the provisions of the SC/ST Act after 11 years of the alleged sale deed of the year 2011 executed in his favour. It is to be noted that, FIR in Crime No.1 of 2022 was registered on 20.01.2021 after 11 years only with an intention to dispossess the Petitioners from enjoying the property and therefore, he sought to quash the charge sheet in S.C.No. 105 of 2022 pending on the file of the learned II Additional District and Sessions Judge, Special Court for PCR Act Cases, Tirunelveli, which is nothing but an abuse of process of the Court.

4.The learned Counsel for the third Respondent/De-facto Complainant filed a typed set of papers containing copies of original sale deed obtained by the third Respondent, viz., Perumbadaiyar from one Bheeman, who was employed in the Tamil Nadu Fire Service Department/landlord/Petitioner in R.C.O.P.No.39 of 2008. The said R.C.O.P.No.39 of 2008 had ended in favour of the landlord as against the tenant for willful default. Against the said order, the first Petitioner herein



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filed an appeal in R.C.A.No.1 of 2010 before the learned Principal Sub Court, Tirunelveli and the same was dismissed, against which, the first Petitioner preferred a revision before this Court. By order dated 28.06.2017 in C.R.P.(MD)No.2697 of 2010, this Court after hearing the elaborate arguments, dismissed the Revision and directed the Petitioner therein/first Petitioner herein to hand over the vacant possession within a period of one year from the date of receipt of a copy of that order.

5.This order was not available in the typed set filed by the Petitioners. Whereas the Petitioners had placed reliance of the order passed by this Court in C.R.P.(NPD)(MD)No.2427 of 2018, dated 07.12.2018. In pursuance of the order, dated 07.12.2018, the title of the property was conferred to the first Petitioner and based on that title, he had executed a settlement deed in favour of his wife/second Petitioner herein and it was also registered with the Sub Registrar, Palayamkottai. He has also enclosed the certified copy of the settlement deed executed by the first Petitioner herein to his wife/second Petitioner herein.

6.After registration of the case by the third Respondent, viz., Perumbadaiyar, a registered sale deed executed by the landlord/the Petitioner in R.C.O.P.No.39 of 2088 could not be released by the Registrar



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concerned on the ground of 'under valuation of the property'. The third Respondent/De-facto Complainant, who is the purchaser, was issued notice under the Indian Stamp Act by the Deputy Collector, Tirunelveli for under valuation of the property in the sale deed, settlement deed etc,. Accordingly, the enquiry was conducted and the purchaser, Perumbadaiyar was directed to pay the deficit stamp duty for the property that was purchased from Bheeman, the former Fireman in the Tamil Nadu Fire Service Department, along with penalty. The sale deed was registered for the value of Rs.4,50,000/- instead of the original value of Rs.14 lakhs. Therefore, the purchaser Perumbadaiyar sought time to pay the same in dues. Accordingly, these details were furnished to the De-facto Complainant.

7.Only after that, the FIR came to be registered before the Land Grabbing Cell against the Petitioners herein. The first and second Petitioners were the tenants in the premises sold by Bheeman after obtaining decree for eviction of the tenants/Petitioners and during the pendency of R.C.A.No.1 of 2010, the third Respondent had furnished the copies of the judgments relied upon by him for filing complaint against the Petitioners to the Land Grabbing Cell, Tirunelveli. Subsequently, the third Respondent had approached the Court and obtained an order directing the Investigation Officer to include the provisions of SC/ST Act, thereby the Petitioners, who



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do not belong to Schedule Cast had usurped the property belonging to the landlord Bheeman, who had already sold the same to Perumbadaiyar through a registered sale deed for a sum of Rs.4,50,000/-. Therefore, it is the Petitioners, who had misguided and misinterpreted the authorities concerned.

8.This Court, by the order dated 28.06.2017 in C.R.P.(MD)No.2697 of 2010, has observed as follows:

“7. The learned Counsel for the Revision Petitioner seeks one year time to vacate the premises on his own and to hand over the vacant possession. In that event, the Revision Petitioner has to file an undertaking in a form of sworn affidavit for probable dated of vacating the premises. If it is less than one year, the same may be considered by the landlord. If such affidavit is not filed by 30.06.2017, the order of eviction shall be executed by the landlord on 01.10.2017.”

Therefore, by the above order, the Petitioner therein/tenant/first Petitioner herein was directed to vacate and hand over the property on 01.10.2017. The Petitioner therein/first Petitioner herein had not complied with the order, instead he had squatted on the property belonging to Bheeman and thwarted the attempt of the purchaser to seek remedy through the Court of law by filing E.A.No.579 of 2017 in E.P.No.152 of 2010 on behalf of Bheeman. Therefore, the third Respondent had no other choice as the purchaser of the property to invoke the provisions under SC/ST Act against him.



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9.On perusal of the SC/ST Act and the complaint in FIR in Crime No.1 of 2022, it is found that the complaint of the Perumbadaiyar is found justified as the first Petitioner had filed petition after petition ignoring the order passed by this Court in C.R.P.(MD)No.2697 of 2010 directing to vacate the premises and hand over the property. He had thwarted the order granted in favour of the purchaser by the learned Principal District Munsif, Tirunelveli, thereby without paying rent to the purchaser or to the previous owner and misinterpreting the order of this Court in C.R.P.(NPD) (MD) No.2427 of 2018, the first Petitioner had executed a settlement deed in favour of his wife/second Petitioner vide Doc.No.1487/2021. The learned Counsel for the third Respondent had invited the attention of this Court that after the FIR was registered in Crime No.1 of 2022, it is was found that if the property belonging to the Schedule Casts and Schedule Tribes had been grabbed by any one not belonging to the Schedule Casts and Schedule Tribes, it also attracts the provisions of SC/ST Act and hence, the provisions of SC/ST Act had been invoked.

10.The learned Counsel for the third Respondent submitted that the third Respondent /De-facto Complainant in Crime No.1 of 2022 had included the Sub Registrar concerned also in the party array for helping the first Petitioner in registering the settlement deed without any specific title in



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his favour. It is to be noted that the very same Sub Registrar had registered the sale deed executed by the original owner Bheeman in favour of the third Respondent, namely, Perumbadaiyar.

11.The typed set of papers filed by the third Respondent containing all the details based on the documents, has to be considered as supporting documents as per the ruling of the Hon'ble Supreme Court in the case of ***State of Haryana vs. Bhajan Lal***. Further, the argument of the learned Counsel for the Petitioners by interfering the argument of the learned Counsel of the third Respondent and not allowing him to argue further, would amount to bringing down the majesty of this Court.

12.After hearing the learned Counsel for the Petitioners, learned Counsel for the third Respondent and the learned Additional Public Prosecutor appearing for the official Respondents, this Court reserved this matter for orders.

13.At this juncture, the cases that are pending for consideration by this Court were directed to be listed for hearing on 14.11.2022 and 15.11.2022 at the request of the Bar, this Court came to know that the Petitioners had also filed W.P.(MD)Nos.23794 and 24518 of 2022 before



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this Court with the following prayers:

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“W.P.(MD)No.23794 of 2022:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents No.1 to 3 not to interfere with the Petitioner's peaceful possession and enjoyment of the property comprised in Resurvey No.12/1B2 Part State-I, Phase-I, Plot No.HIG 25 situated at V.M.Chathiram, Palayamkottai Taluk, Tirunelveli District in the light of the order passed by this Honourable Court in C.R.P.(NPD)(MD) No.2427 of 2018 dated 04.06.2019 in favour of the Petitioner, by unnecessarily harassing the Petitioner and his family members illegally under the guise of enquiry, on the basis of the Petitioner's representation dated 30.09.2022, within the time frame stipulated by this Court and pass further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

W.P.(MD)No.24518 of 2022:

Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Mandamus directing the respondents Nos.1 to 3 to take appropriate action against the Respondents No.4 to 11 by conducting an enquiry, on the basis of the Petitioner's representation dated 14.10.2022 and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.”

14. When the learned Counsel for the Petitioners commenced his arguments, the learned Additional Public Prosecutor appearing for the official Respondents objected the same stating that these Writ Petitions are not maintainable. When this Court after hearing the Criminal Original Petition filed by the Petitioners at length and reserved for orders, filing of Writ Petitions by the very same Petitioners against the very same authorities, who are the Respondents in the said Criminal Original Petition, is not at all maintainable. In both the Writ Petitions and in the Criminal Original Petition, the Respondents 1 to 4 are one and the same and there are



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some private Respondents in the Writ Petitions.

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15. When the learned Counsel for the Petitioners commenced his arguments, this Court directed the Petitioners to confine his argument with the prayers in the writ petitions. The learned Additional Public Prosecutor objected the writ petitions stating that the Writ Petitions are frivolous petitions. When the Criminal Original Petition filed by the Petitioners against the very same official is heard in *extenso* and reserved for orders, the Petitioners are going on by filing frivolous petition to squat on the property and the Writ Petitions have no merit and deserves to be dismissed.

16. On such objection by the learned Additional Public Prosecutor, when this Court was about to pass orders in the said Writ Petitions on the date, when the Writ Petitions are listed for hearing (i.e., on 14.11.2022 and 15.11.2022), the learned Counsel for the Petitioners sought time of two weeks. He knows very well that the present Roster will end by December 2, 2022. Even though he sought two weeks time to prolong the matter, knowing well the intention of the Petitioners, this Court had taken note of the fact that the Writ Petitions filed by the first Petitioner herein are nothing but an exercise in futility to squat on the property and this Court does not want to hear the Writ Petitions, hence, adjourned the same by two weeks.



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17. Coming to the present case, it is clear that the Petitioners disobeyed the order of this Court made in C.R.P.(MD)No.2697 of 2010, dated 28.06.2017 and had been squatting on the property by filing frivolous petitions. This Court can take Judicial notice under the Indian Evidence Act of the fact that the conduct of the Petitioners before this Court, by misusing the forum of the Court for their illegal activities. The person, who had purchased the property through a registered sale deed, had been prevented from taking possession of the property by misusing the forum of this Court through filing frivolous petitions and screening the orders already passed against the Petitioners by this Court.

18. In the light of the above, the Petitioners 1 and 2 herein, who had been in continuous illegal possession of the property, even after the registration of the case thwarting the attempt of the landlord, who sold the property to the Perumbadaiyar/De-facto complainant/third Respondent herein, seeking to quash the Charge Sheet in S.C.No. 105 of 2022 pending on the file of the learned Special Judge, II Additional District and Sessions Court (Special Court for PCR Act Cases), Tirunelveli, as if they had not committed any offence under the SC/ST Act, cannot at all be accepted. Accordingly, this Criminal Original Petition is dismissed with exemplary costs of Rs.10,00,000/- (Rupees Ten Lakhs Only).



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In the result, **this Criminal Original Petition is dismissed with exemplary costs of Rs.10,00,000/- (Rupees Ten Lakhs Only).**

The learned II Additional District and Sessions Judge, Special Court for PCR Act Cases, Tirunelveli, is directed to collect the amount of costs imposed on the Petitioners herein in S.C.No.105 of 2022 to be paid to Perumbadaiyar/De-facto Complainant/third Respondent herein. The learned II Additional District and Sessions Judge, Special Court for PCR Act Cases, Tirunelveli, shall impose conditions for collecting the amount of costs for payment of the said amount to the De-facto Complainant. For violation of conditions, he can also impose condition cancelling the bail already granted to the accused in S.C.No.105 of 2022.

The Third Respondent/De-facto Complainant in within his right/discretion to follow the guidelines issued by the learned Single Judge of this Court while disposing off C.R.P.(MD) No.2697 of 2010 to evict the Petitioners 1 and 2 herein/tenants under the previous landlord – Bheeman, who was the vendor of the third Respondent/De-facto Complainant.

23.12.2022

Index : Yes/No
Internet: Yes/No

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<https://www.mhc.tn.gov.in/judis>



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To

- 1.The Assistant Commissioner of Police,
O/o the Assistant Commissioner of Police,
Junction Range, Tirunelveli City.
- 2.The Inspector of Police,
Central Crime Branch,
Tirunelveli City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.,

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Pre-Delivery Order reserved in
Crl.O.P.(MD)No.17047 of 2022

23.12.2022