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Criminal Original Petition No.1826 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.1826 of 2022

and

Crl.M.P.No.748 of 2022

K.Suresh

S/o.Kandasamy

...Petitioner

Vs

1.The State represented by
The Inspector of Police,
Namakkal Police Station,
Namakkal District.

2.R.Boopathi

S/o.Rathinam Asari

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records relating to FIR in Crime No.1781 of 2021 on the file of first respondent police and quash the same.

For Petitioner : Mr.G.Ravikumar

For Respondents : Mr.A.Gopinath
Government Advocate [Crl.side] [R1]
No appearance [R2]



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ORDER

This petition has been filed seeking to quash the First Information Report pending investigation in Crime No.1781 of 2021 on the file of first respondent.

2. Heard Mr.G.Ravikumar, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for first respondent. Though notice has been served on the second respondent, he has not chosen to enter appearance either in person or through a counsel.

3. The second respondent has given a complaint before the first respondent to the effect that the petitioner has charged exorbitant interest while executing the registered mortgage deed on 01.09.2017 and subsequently, has managed to grab the property belonging to the second respondent through a registered sale deed on 19.02.2018. It is further alleged in the complaint that the second respondent was threatened and he was forced to execute the documents. Based on this complaint, a case came to be registered against the petitioner for offences u/s.323, 386 and 506(ii) IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant



Interest Act, 2003.

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4. When the matter came up for hearing on 31.01.2022, this Court passed the following order:

"The learned counsel for the petitioner submits that a false case has been initiated against the petitioner at the instance of the 2nd respondent. The transactions is of the year 2014, 2015 and 2017 for which, registered mortgage was executed by the 2nd respondent, thereafter a sale deed and its receipt were also executed. In the sale deed, earlier loan transactions are recorded. Contrary to the same, now a complaint has been lodged in the year 2021 as though the petitioner received security cheque, pro-notes, charge exorbitant interest and got the property of the defacto complainant to him.

2. In view of the same, the learned Additional Public Prosecutor takes notice for the 1st respondent and directed to find out what is the status of the property, whether revocation has been filed, Civil Suit is pending between them and to file a status report.

3. Notice to the 2nd respondent returnable by 21.02.2022. Private notice is also permitted.

4. Post this matter on 21.02.2022. The respondent police shall not file the Final Report till the disposal of this Criminal Original Petition."

5. In the considered view of this Court, the petitioner and the second respondent had transactions among themselves during the years 2014, 2015 and 2017. A registered mortgage was also executed in favour of the petitioner and ultimately, a registered sale deed was also executed in favour of the petitioner. All these transactions were over in the year 2018 itself



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whereas a complaint came to be given in the year 2021 as if the petitioner has threatened and grabbed the property by charging exorbitant interest. The second respondent even without challenging documents executed in favour of the petitioner, has attempted to indirectly achieve the same by filing a criminal complaint. The continuation of criminal proceedings against the petitioner is an abuse of process of law and the same requires interference of this Court in exercise of its jurisdiction under Section 482 Cr.P.C.

In the result, this Criminal Original Petition is allowed and the proceedings in Crime No.1781 of 2021 on the file of first respondent is quashed. Consequently, connected miscellaneous petition is closed.

03.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To
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- 1.The Inspector of Police,
Namakkal Police Station,
Namakkal District.
- 2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

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