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CrI.OP.No.7549 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.7549 of 2022 and
CrI.MP.No.4323 of 2022

S.Palanisamy

... Petitioner

Vs.

1.The Inspector of Police,
Avinashipalayam Police Station,
Tiruppur District
(crime No.708 of 2021)
2.K.M.Chinnasamy

... Respondents

PRAYER:

Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records in crime No.708 of 2021 on the file of the Inspector of Police, Avinashipalayam Police Station, Tiruppur District and to quash the proceedings in the above First Information Report so far as against the petitioner herein.

For Petitioner

: Mr.G.Saravanan



WEB COPY



CrI.OP.No.7549 of 2022

For Respondents

For R1

: Mr.A.Gopinath,
Government Advocate(CrI.side)

For R2

: Mr.K.S.Karthik Raja

ORDER

This Criminal Original Petition has been filed to quash the proceedings in crime No.708 of 2021 on the file of the Inspector of Police, Avinashipalayam Police Station, Tiruppur District registered for the offences under Sections 147, 148, 448, 294(b) and 506(ii) of IPC as against the petitioner and others.

2. The present FIR has been registered on the allegation that the second respondent is owning lands and constructed marriage hall, ashram and enjoying the same. While being so, on 24.10.2021, on the instigation of the first accused, more than 200 persons came to that place and attempted to put up a hut. Immediately, it was informed to the second respondent and he had sent his brother's son to the place of crime. When his brother's son asked about the illegal encroachment, accused persons threatened him with dire consequences and also attempted to attack him. Hence, the complaint. On



Crl.OP.No.7549 of 2022

receipt of the complaint, the first respondent registered FIR in crime No.708 of 2021 for the offences under Sections 147, 148, 448, 294(b) and 506(ii) of IPC as against the petitioner and others.

3. Even according to the second respondent, on the instruction given by the petitioner alone, other accused persons came to the place of occurrence and attempted to put up a hut. When it was questioned by the second respondent's brother's son, the other accused persons attempted to attack him and also threatened him with dire consequences. Therefore, the petitioner was not there in the place of occurrence. As per the allegations, he instructed the other accused persons to do this crime. Even then, the first respondent did not register FIR for any offence of abetment, conspiracy or any common intention. Except one line allegation, no other allegations as against the petitioner.

4. The learned counsel for the second respondent filed counter and submitted that there was previous enmity between the petitioner and the second respondent with regards to formation of jallikattu ground. The petitioner committed very serious offence by levelling one hill. Therefore, on the complaint lodged by the second respondent, fine was imposed and the



CrI.OP.No.7549 of 2022

petitioner paid fine amount. Therefore, in order to wreak vengeance, the petitioner only instructed the other accused persons to visit the land owned by the second respondent and attempt to put a hut. He further submitted that it is only an FIR and it cannot be quashed on its threshold.

5. Heard, the learned counsel appearing on either side.

6. As stated supra, the first respondent did not even register FIR for the offence as alleged against the petitioner. Therefore, the second respondent lodged complaint adding the petitioner's overt act to wreak vengeance as against the petitioner and nothing else. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of ***State of Haryana Vs. Bhajan Lal and others*** reported in ***1992 SCC (crl) 426***, wherein the Hon'ble Supreme Court of India listed out certain categories of cases including the following one in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

(7) where a criminal proceeding is manifestly attended with mala fide 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



CrI.OP.No.7549 of 2022

personal grudge."

WEB COPY

7. Therefore, the entire proceedings is nothing but clear abuse of process of court and it is liable to be quashed as against the petitioner. Accordingly, the entire proceedings in crime No.708 of 2021 on the file of the Inspector of Police, Avinashipalayam Police Station, Tiruppur District is quashed as against the petitioner alone and this criminal original petition is allowed. However, the first respondent is directed to complete the investigation in crime No.708 of 2021 and file a final report as against the other accused persons within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

01.12.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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CrI.OP.No.7549 of 2022

G.K.ILANTHIRAIYAN, J.

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To

- 1.The Inspector of Police,
Avinashipalayam Police Station,
Tiruppur District
- 2.The Government Advocate,
High Court of Madras

CrI.OP.No.7549 of 2022

01.12.2023