



Crl.O.P.No.15276 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.09.2023

PRONOUNCED ON: 20.09.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.15276 of 2020

and

Crl.M.P.No.5825 of 2020

K.K.Ramesh

...

Petitioner

/vs/

1.The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai – 600 087.

2.Jayachandran

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records in impugned charge sheet in C.C.No.236 of 2017 on the file of the learned Judicial Magistrate No.1, Poonamallee, Tiruvellore District and quash the same.

For Petitioner

...

Mr.Sunny Sheen Akkara
for Mr.B.S.Mitraneeshaa

For Respondent
No.1

...

Mr.L.Baskaran
Govt. Advocate (Crl.side)

For Respondent
No.2

...

Mr.V.Sambamurthy
for Mr.R.Kandasamy



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ORDER

WEB COPY Challenging the criminal proceedings in C.C.No.236 of 2017 on the file of the Judicial Magistrate No.1, Poonamallee, Tiruvellore District, the present criminal original petition has been filed.

2.The complainant's case is that the complainant/the second respondent's wife Renuka had purchased the house plot to an extent of 2940 sq.ft at Agasthiar Street, West Kamakoti Nagar, Valasaravakkam, Chennai – 600 087 in Survey No.68 of Valasaravakkam Village vide registered Sale deed in Doc.No.380/2005 dated 27.01.2005, since then Renuka and her husband/the 2nd respondent were in peaceful possession and enjoyment of the abovesaid property. In consequence thereof, the 2nd respondent's wife has obtained Patta, Chitta and Adangal in her name for the abovesaid property. Thereafter, they decided to construct a house in the abovesaid plot, hence, on 09.05.2011, the 2nd respondent went to clean the said plot, at that time, the petitioner, who is residing at the Eastern Side of the 2nd respondent's wife's plot, came to spot and threatened him to give 5 feet breath and 70 feet length in the abovesaid land, which is adjacent to



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the petitioner's plot for his use freely, otherwise the 2nd respondent has to face dire consequences, moreover the 2nd respondent was threatened that if he does not give 5' X 70' of land, he can't live in his property. Further, the petitioner along with the rowdies, shouted against the 2nd respondent with unparliamentary and obscene words and threatened the 2nd respondent that he will kill him, since he is an advocate of ruling political party and his brother is Superintendent of police, hence, the 2nd respondent can't do anything. In fact, the petitioner/accused had threatened him to give 5' X 70' Sq.ft of land freely, but actually he had encroached 7' X 70' Sq.ft extent of land on the Western side of his house. Further, the petitioner threatened the 2nd respondent that if he don't leave the place, he will kill and burry the 2nd respondent there itself. On the same day i.e., on 09.05.2011, the second respondent had lodged a complaint against the petitioner and his henchmen at R9, Valasaravakkam Police Station, Chennai, along with the Sale Deed to prove their clear title. The Station Officer received the 2nd respondent's complaint and gave C.S.R.No.84/CSR/R9/2011 and no action had been taken due to the strong influence of the petitioner's position (An advocate) and political party connections.



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3. On 04.06.2011, the second respondent sent his workmen to dig a well in the said plot, again the petitioner came and had quarrel with the workers and stopped them from doing the work. Immediately the 2nd respondent rushed there and addressed the issue, while so the petitioner scold the 2nd respondent with unparliamentary words such as “ you bastered son you came again, if you stand here anymore I will cut your legs” as such he used obscene words. To avoid problem, the 2nd respondent left the place and again lodged a complaint against the petitioner at R-9, Valasaravakkam Police Station but again no action had been taken by the 1st respondent police. As there was no action on the side of the 1st respondent police even after repeated complaints, the 2nd respondent has filed the Direction Petition in CrI.O.P.No.19548/2014 before this Court to register the complaint against the petitioner. This Court in its order dated 25.07.2015 directed the 1st respondent police to register the F.I.R based on the complaint given by the 2nd respondent.



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4.By virtue of the order passed by this Court in Crl.O.P.No.19548 of 2014, the 1st respondent police registered a case against the petitioner under Sections 294(b), 506(i) IPC in Crime No.1970 of 2014 on 11.11.2014. Thereafter, no charge sheet was filed against the petitioner, hence, the 2nd respondent has filed Crl.O.P.No.686 of 2017 before this Court for a direction to the 1st respondent police to file final report in crime No.1970 of 2014 on the file of the R-9 Valasaravakkam Police Station, Chennai – 600 087 within the period of 4 weeks. On that criminal original petition in Crl.O.P.No.686 of 2017, this Court on 31.01.2017 directed the 1st respondent police to file final report against the petitioner within a period of six weeks. Thereafter, on filing the final report, the case has been taken on file in C.C.No.236 of 2017 for the offences punishable under Sections 294 (b), 506(ii) IPC, which is under challenge.

5.The learned counsel appearing for the petitioner/accused submitted that when the property namely vacant house plot to an extent of 2940 Sq.ft at Agasthiar Street, West Kamakoti Nagar, Valasaravakkam, Chennai – 600



087, was sold by the power of attorney holder B.Jayachandran/second respondent to the petitioner's Sister-in-law Tamilselvi, he has no authority and power to execute the sale deed on the date since the principal Adishesan died and not alive on the date of execution of sale deed. The allegation raised as against the petitioner is that on 04.08.2014 at 10.00 a.m., the petitioner prevented the workmen of the 2nd respondent from erecting well in his own land and when the same was questioned by the 2nd respondent, the 2nd respondent was abused in filthy languages and threatened to cut his leg. This complaint is nothing but to wreak vengeance against the petitioner besides frivolous, vexatious oppressive and counter blast. Besides, no reasonable and prudential officer would come to the conclusion that there is a basis for proceeding against the accused. The allegations mentioned in the impugned FIR do not constitute any offence as alleged by the respondents.

6.Further the learned counsel for the petitioner submitted that the date of occurrence differs in the FIR and in the impugned Charge Sheet and in the 161 statement of the 2nd respondent, because all those are



imaginary and to fix the petitioner in a criminal case, process of criminal law was abused. In addition, there is a delay in registering FIR in the year 2014 for the occurrence took place on 04.06.2011. To support his argument, he relied upon the judgment of the Hon'ble Supreme Court in ***State of Haryana and Ors. V. Bhajan Lal and Ors*** reported in ***(1992) Supp (1) SCC 335*** and thus, pleaded to quash the charge sheet in C.C.No.236 of 2017 on the file of the Judicial Magistrate No.I, Poonamallee, Tiruvellore District against the petitioner.

7.The learned counsel appearing for the second respondent submitted that the inherent power under Section 482 Cr.P.C cannot be exercised to stifle the legitimate prosecution and to support his argument, he relied upon the judgment of the Hon'ble Supreme Court in ***Umesh Kumar Vs. State of A.P.*** reported in ***(2013 (10) SCC P.591)***. Admittedly, there is a civil suit pending in Criminal incident also true one. There is a counter case in C.C.No.315 of 2011 before the Judicial Magistrate No.1, Poonamallee against this respondent, in which, the petitioner is the complainant. These two case are case and counter case. Therefore, it has to



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be adjudicated by letting evidence and no merit in the criminal original petition and thus, pleaded to dismiss the criminal original petition.

8.I have considered the matter in the light of the submissions made by the learned counsel for the parties as well as the materials available on record.

9. On perusal of the materials, it is noticed that the petitioner is an accused in C.C.No.236 of 2017 on the file of the Judicial Magistrate No.I, Poonamallee, Tiruvellore District. Admittedly, there is a land dispute between the petitioner and the 2nd respondent/defacto complainant/power agent of Adishesan. The property was purchased by the second respondent's wife Renuka as a vacant house site to an extent of 2940 sq.feet. In this regard, O.S.No.93 of 2019 is pending before the Principal District Munsif Court, Poonamallee.

10.The alleged two occurrence took place on 09.05.2011 and 04.06.2011. In this regard, a criminal complaint has been given in crime



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No.1970 of 2014 for offences under Sections 294 (b), 506(i) IPC. After investigation, final report has been filed. It is also not disputed that a counter case is also registered against the second respondent in that the petitioner is the complainant, the final report in C.C.No.315 of 2011 is also pending before the Judicial Magistrate No.1 Poonamallee. It is clear that two cases are case and counter case. Under such circumstances, while hearing application under Section 482 Cr.P.C, this Court ought not to appreciate statement of witnesses and record a finding that there are inconsistencies in their statements for determination of the questions, it becomes relevant to note the nature of the offences alleged against the petitioner, the ingredients of the offences and the averments made in the FIR /complaint and the final report materials. On perusal of the materials on records, it is clear that there is a case and counter case inherent powers under Section 482 Cr.P.C. though wide have to be exercised sparingly, carefully and with great caution and only when such exercise is justified by the tests specifically laid down in the Section itself. On fact the case of the petitioner do not come under any of the categories enumerated in ***Bhajan Lal case*** by the Hon'ble Supreme Court. Therefore, I find no merit to quash



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the criminal proceedings in C.C.No.236 of 2017 on the file of the Judicial Magistrate No.I, Poonamallee, Tiruvellore District and this criminal original petition has to be dismissed.

11.In view of the above, the criminal original petition is dismissed.

Consequently, connected miscellaneous petition is closed.

Index : Yes/No

Internet : Yes/No

20.09.2023

sms

To

1.The learned Judicial Magistrate No.1,
Poonamallee, Tiruvellore District.

2.The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai – 600 087.

3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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Pre-delivery order made in
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