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Crl.O.P.No.14514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.14514 of 2023

and

Crl.M.P.No.9006 of 2023

P.Dinesh

.. Petitioner

Vs.

1.Mrs.Vinodhini

2.The State Rep.by
The Inspector of Police,
V & AC, Thiruvarur.

..Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to call for the records in FIR in Crime No.2 of 2022 dated 21.02.2022 on the file of the second respondent and quash the same.

For Petitioner : Mr.A.Navaneethakrishnan, Sr.C
For M/s.Pandithennavan

For R2 : Mr.S.Udayakumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition is filed to quash the criminal complaint registered by the Inspector of Police, Vigilance and Anti Corruption, Tiruvarur, in Crime No.2 of 2022.

2. The First Information Report was given by Vinodhini, Pallakollai Street, Serumanagalam Village, Mannargudi Taluk. On 18.02.2022, the Vigilance and Anti Corruption police at Tiruvarur has entrusted a voice recorder to the defacto complainant and ask her to meet the Sub Registrar to whom alleged to have demanded Rs.15,000/- to give the document of settlement deed registered on 25.01.2022. After hearing the conversation between the Sub Registrar, the defacto complainant and her husband, the Inspector of Police has thought fit to register the complaint in Crime No.2 of 2022 under Sections 7, 8 of the P.C.Act on 21.02.2022. Thereafter, trap has been laid and the money smeared with phenolphthalein powder been recovered from the office of the Kennady, who is the owner of the computer center.

3. According to the prosecution, the defacto complainant been



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frequently visiting the Sub Registrar Office for the release of the document, but the same was not released. The petitioner was serving as Sub Registrar been initially took excuse that the property must be inspected before release the document and after inspecting, started demanding of Rs.15,000/- and in fact the Sub Registrar, Tiruvarur had collected only Rs.4,530/- as additional charge and stamp duty on 21.02.2022, the day of trap and given a receipt for it. Therefore, on the presumption that the Sub Registrar demaned Rs.15,000/- and collected the same through Kennady, the computer operator. Thereafter, assessed the additional duty is only Rs.4,530/- and along with Kennady with an intention to retain the balance money. This quash petition is filed on the fact that it is a malicious prosecution without any basis, only to harass the petitioner herein. The materials collected by the prosecution during the alleged trap does not incriminate anyway the petitioner herein.

4. The learned Senior Counsel appearing for the petitioner submitted that the registration of the complaint of Vinodhini itself on the face of it a dubious attempt by the Inspector of police to maliciously prosecute the petitioner herein. In the said complaint alleged to have



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been registered on 21.02.2022. However, the reading of the complaint would clearly show that the information about the demand of illegal gratification brought to the notice of the Inspector of Police as early as on 18.02.2022 and he had commenced the trap proceedings by entrusting the voice recorder to the defacto complainant with instructions to meet the Sub Registrar. Accordingly, the defacto complainant/Vinodhini and her husband Veeramani had met the Sub Registrar and had discussed about the release of document. The document which was registered as a gift deed on 25.01.2022 with a recital that it is a vacant land was in fact had two structures, one a tiled house and another one thatched house. On inspection, VAO found that there is a suppression of material facts in the document. The value shown in the document is under value by omitting the structure and therefore, it requires re-assessment. Accordingly when the defacto complainant and her husband met him on 18.02.2022 at earlier and in continuously informed them that the value of the property has to be assessed, they have supposed to pay the additional stamp duty and charge.



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5. The transcript of the conversation between the accused and the defacto complainant on 18.02.2022 does not disclose any incriminating evidence of demand of illegal gratification. Infact the accused had tried to explain the defacto complainant and her husband, the procedure involved in cases where additional stamp duty to be collected. Since the defacto complainant has registered the document through one Kennady, the computer operator. the petitioner has directed the defacto complainant to meet Kennady and to pay the additional fee which is to be assessed by them on inspection. In his estimation at that time, he had the opinion that the additional charge to be collected will come around Rs.15,000/-. However, he had not demanded any money more and above the additional charge to be levied that could be seen from the transcript and therefore, the Inspector of Police if fair and had applied his mind, he would have not register the compliant on 21.02.2022. Even thereafter, the tainted money was not received by the petitioner or recovered from him, but the money given to Kennady, the computer operator and recovered from him under the Seizure Mahazar. The statement of Kennady, the defacto complainant and decoy witness



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does not reveal any incriminating evidence worth prosecuting the petitioner either for demand or for obtainment of undue advantage for himself or for others.

6. This Court, on perusing the records, finds that without any embellishment, the learned Senior Counsel for the petitioner has placed the facts on record before this Court. This Court on perusing the same finds that the prosecution has no leg to stand and not worth investigation for the following reasons:-

(i) The First Information Report dated 21.02.2022 is not the FIR as far as this case is concerned.

(ii) The transcript of the conversation between the petitioner and the defacto complainant does not disclose any indication of demand of illegal gratification.

7. Therefore, based on the FIR dated 21.02.2022 and the



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telephonic conversation registering the FIR under Sections 7 & 8 of the P.C.Act as amended by Act 16 of 2018 is not sustainable. The complaint of Vinodhini gives an impression that there was demand of illegal gratification made by the accused. However, the transcription of the conversation recorded does not indicate any demand of illegal gratification. Trap proceedings, which was conducted in the premises of Kennady, computer centre, indicates that the money was not received by the petitioner or received on his instructions.

8. The statements of the defacto complainant and the shadow witness say, Kennady went inside the Sub Registrar Office along with the defacto complainant and met the Sub Registrar. It does not say that the petitioner instructed Kennady to receive Rs,15,000/- as illegal gratification. The statement of the shadow witness says when he along with the defacto complainant tried to enter the Sub Registrar Office, they were not allowed to meet the Sub Registrar by watchman. Therefore, when there was no access to meet the Sub Registrar on that day and the money was entrusted only to Kennady, there is no link evidence even



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prima facie to hold that the Kennady received Rs.15,000/- from the defacto complainant on instruction of the petitioner.

9. This Court at this juncture wish to point out that the defacto complainant had suppressed the existence of the structure in the property and tried to evade the stamp duty. The petitioner, who is the Sub Registrar, in the course of inspection has found that there is a suppression in valuation. Therefore, retained the document for realisation of stamp duty.

10. Being aggrieved this complaint has been motivated without any *prima facie* materials to register the FIR, the Inspector of Police had registered this FIR on 21.02.2022. However, he has commenced the discreet trap proceedings even on 18.02.2022 itself by instructing the defacto complainant to go and meet the Sub Registrar and record the conversation decreetly. The recorded conversation, in fact, has not disclosed any demand of illegal gratification. While so, the registration of the FIR on the face of it bristles with malafide.

11. Therefore, it is a fit case to be quashed at the FIR stage itself



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by following the dictum laid down by the Honourable Supreme Court in
Bajanlal Vs. State of Haryana.

12. In the result, this Criminal Original Petition stands allowed.

Consequently, the connected Criminal Miscellaneous Petition is closed.

25.07.2023

Internet : Yes/No

Index: Yes/No

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To

1.The Inspector of Police,
V & AC, Thiruvavur.

2.The Public Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN, J.



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