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Crl.O.P.No.23431 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.03.2023

Pronounced on : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.23431 of 2019

and

Crl.M.P.No.12312 of 2019

1.R.V.Shekar

2.Mallika Ravi

3.R.Subramanian

4.B.Sudhakar

5. M V D Kumar

6.S.Babu

... Petitioners/Accused 1 to 6

Vs.

D.Antony

Respondent/Complainant

Prayer: This Criminal Original Petition has been filed to call for all the records of C.C.No.4397 of 2017 pending on the file of the XXIII Metropolitan Magistrate Saidapet, Chennai and quash the same.

For Petitioners :Mr.P.R.Raman Senior Counsel
for Mr.C.Seethapathy

For Respondent : No Appearance



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ORDER

The petition is to quash the private complaint for the alleged offences under Sections 147, 352, 448, 427 and 506 (II) r/w 149 I.P.C.

2.It is alleged in the private complaint that the petitioners had entered into the premises called “Menon Eternity” without any authorisation on 27.01.2017 at about 10:30 AM. It is alleged that the petitioners along with thirty unknown persons entered the premises. When the receptionist of the building asked for ID cards, the first accused asked his henchman to break the legs of the security staff. The second accused also threatened the security officer stating that she would beat him and break his legs and throw him away. The security staff got frightened and immediately gave a complaint to E-4 Abhiramapuram Police Station. However, the police did not register any FIR and hence, the complainant who is working as Manager in the premises at “Menon Eternity” filed the complaint for the above said offences.

3.Mr.P.R.Raman, learned Senior Counsel for the petitioners submits that;



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(a) the first petitioner is aged about 71 years and the second petitioner a lady who is aged about 58 years are the Chairman and CEO of a reputed company. It is highly improbable that they had abused the security staff in the building in the manner alleged in the complaint. They had entered into Joint Development Agreement with the owners of the land namely Mr.Prem Kumar Menon and Mr.Kishore Kumar Menon and Mr.Christopher Gladstone Menon on 17.12.2004. The dispute arose between the land owners and the petitioners. The disputes between the petitioners and the owners of the buildings were referred to Arbitration. The Arbitrator had decided in favour of the owners by holding that the sale deeds were executed in favour of “Lancor Holdings Ltd”, in which, the first petitioner is the Managing Director and the second petitioner is the Chief Executive Officer are void.

(b) This Court set aside the said award by the order dated 23.12.2016 in O.P.No.231 of 2016. Thereafter, the owners of the land filed O.S.A.No.39 of 2017 which was allowed by the order dated 30.01.2019. Thereafter, the company “Lancor Holdings Limited” filed SLP(C) No.5423 – 5424 of 2019 and the same is pending.



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(c) While so, the owners through their employees have been continuously filing criminal complaints on one pretext or the other and all the complaints were quashed by this Court. Initially, they had filed C.C.No.9652 of 2009 on the file of Magistrate under Sections 405, 409, 415, 418, 420 and 423 of I.P.C. This Court in Crl.O.P.No.12771 of 2009 by the order dated 25.07.2012 to quash the said private complaint. The owners filed SLP before the Honourable Supreme Court and the same was dismissed on 26.11.2012. A review petition was filed which also dismissed on 21.02.2013. Yet another complaint in C.C.No.2496 of 2013 for offences under Sections 409, 420 and 120 B of I.P.C was filed. The petitioners filed Crl.O.P.No.17044 of 2013 which was allowed by this Court on 23.11.2018. The owners challenged the said order before the Honourable Apex Court and the same was dismissed on 04.07.2019. Likewise, another complaint was filed CC.No.539 of 2013 for the offences under Sections 406, 418, 420 r/w 120 (b) I.P.C. This Court had quashed by the said complaint by an order dated 22.10.2021 in Crl.O.P.No.13298 of 2015.



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(d) The learned senior counsel would further submit that the impugned complaint was lodged after the petitioners had obtained an order dated 23.12.2016 in O.P.No.231 of 2016 which set aside the award dated 16.03.2016. The petitioners had not committed any of the alleged offences. A civil dispute is sought to be given criminal colour. The complaint also been filed belatedly one month after the occurrence.

4. Though notice was served on the respondent, none has entered appearance for the respondent.

5. The complaint states that the Managing Director and Chief Executive Officer along with few other employees of “Lancor Holdings Limited” had committed the offences of unlawful assembly, trespass and assault besides criminal intimidation. The complaint on the face of it appears to be highly improbable. The private complaint was filed nearly forty days after the alleged occurrence. Though, the complaint would state that he had given the complaint to E-4 Abhiramapuram Police Station after the occurrence, the receipt filed along with the private complaint shows that it was issued on 31.01.2017. Admittedly,



therefore, the police complaint was lodged four days after the alleged occurrence.

The complaint also does not disclose as to whether the complainant had made any representation to Superintendent of Police. Admittedly, the civil disputes are pending between the owners of the building whom the complainant represents and the petitioners. Further, this Court on earlier occasions had quashed the private complaints filed by the owners as against the petitioners on more than one occasion. In fact, in the earlier order dated 22.10.2021, this Court had made observations as against one of the owners who was first respondent in the said quash petition in Crl.O.P.No.13298 of 2018 dated 22.10.2021 which is as follows;

“22.In the instant case, it is very clearly seen that the 1st respondent appears to take pleasure in lodging complaint after complaint. The Magistrate should have noted that the instant complaint is based on documents which were in existence even when the 1st complaint was lodged and therefore should have put a gentle question to the 1st respondent as to why these allegations were not placed earlier. Even otherwise, a perusal of the document shows that only 50% undivided share of the land had been actually mortgaged. The mortgage had also been discharged and the title deeds had been returned back to the petitioners herein. These are facts which stare in the face of the Magistrate. The Magistrate should have examined them. Taking cognizance merely because a complaint had been filed would only indicate that the Magistrate had played into the hands of litigants who want to exploit the judicial process for their own unlawful ends to coerce the other party to submit to some sought of



settlement, obviously detrimental and violative of the terms of agreement already entered into between them. This cannot be permitted. It has to be prohibited. It is prohibited in this case.”

6.The present complaint also appears to be yet another attempt to arm twist the petitioners. The complaint is an afterthought lodged four days after the alleged occurrence to the police. There is no explanation for the said delay. Besides that, the allegations as against the Managing Director, the first petitioner and the lady namely the second petitioner, Chief Executive Officer of the company appears to be highly improbable. The police had rightly refused to take action on the said complaint. The civil disputes cannot be given a criminal colour and criminal Courts cannot be used for the purpose of settling civil matters. The observations of this Court on the conduct of the owners in another quash petition which is extracted earlier is applicable to this case as well. Hence, the impugned complaint deserves to be quashed and hence, quashed.

7.Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

17.03.2023



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dk/ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

SUNDER MOHAN, J

dk/ay

To
The XXIII Metropolitan Magistrate Saidapet,
Chennai.

Pre-delivery order in

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and



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