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Crl.O.P(MD).No.4183of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.07.2023

Pronounced on : 21.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.4183 of 2020

Pandian

...Petitioner

Vs

1.The Sub Inspector of Police
Uthamapalayam Police Station,
Theni District.

2. Nagammal

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to the impugned First Information Report in Crime No.178 of 2019 on the file of the first respondent and to quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.M.S.Jeyakarthik

For R-1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R-2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.178 of 2019 on the file of the first respondent.



2. According to the petitioner, the alleged case of prosecution is that the land in S.No.965/1 situated in Oothukadu, Kombai Road, Kumbam has been in possession and enjoyment of the defacto complainant since 2012. The defacto complainant came to know that the accused persons set fire to the plastic articles stored in the above place. Therefore she and her daughter-in-law rushed to the above place and when they reached the place at about 07.15 pm., the accused persons developed quarrel with the defacto complainant by abusing her in filthy language, assaulted her with stones and they also criminally intimidated her. Based on the complaint given by the second respondent/defacto complainant a case in Crime No.178 of 2019 has been registered for the offences under Sections 294(b),324, 427, 435, 447, 506(ii) of IPC and Section 4 of TNPHW Act,2002 as against the accused persons. The said case is false one and the petitioner has not committed any offence as alleged in the First Information Report. Since there is a civil dispute pending between the petitioner and the defacto complainant this case has been foisted against the petitioner and hence this petition is to be allowed.

3. The learned counsel for the petitioner would submit that based on the complaint given by the defacto complainant a false case has been registered against him and no such offence has been committed by the petitioner as alleged by the defacto complainant. The first respondent



without considering the veracity of the complaint, registered the impugned First Information Report. Further according to the First Information Report there is a delay in the lodging of the complaint and in order to harass the petitioner and his family members the second respondent herein has given a false complaint. Further originally the land in S.No.965/1 situated in Oothukadu belongs to the petitioner and he has purchased the same by way of registered sale deed dated 22.04.2023 for valuable sale consideration amount from one P.Alagathevar. In these circumstances the second respondent is claiming the above property stating that she entered into unregistered sale agreement dated 11.09.2012 with P.Alagathevar in respect of the above mentioned property and the said P. Alagathevar failed to execute sale deed as per the sale agreement and he sold the above property to the petitioner. Thereafter in order to harass the petitioner, the second respondent filed a suit in O.S.No.54 of 2014 before the Sub Court, Uthamapalayam seeking the relief of specific performance and declaration and now the same is pending. Further the defacto complainant lodged compliant on 27.03.2019 alleging that the petitioner and others have set fire to the property and when the same was questioned by the daughter-in-law of the second respondent some unknown persons came there and abused her in filthy language, caused criminal intimidation and also attacked her, but the alleged occurrence had not taken place as alleged in the complaint. Only to harass the petitioner this First Information Report has been filed against him,



hence the First Information Report is liable to be quashed.

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4. Though name printed in the cause list none appeared on behalf of the second respondent.

5. The learned Additional Public Prosecutor would submit that based on the complaint given by the second respondent/defacto complainant the first respondent has registered the First Information Report in Crime No.178 of 2019 for the offences under Sections 294(b), 324,427,435,447,506(ii) of IPC and Section 4 of TNPHW Act,2002. Thereafter the first respondent has investigated the case and examined the witnesses and now filed final report before the learned Judicial Magistrate, Uthamapalayam and the same was taken on file in C.C.No. 485 of 2022. As per the final report, *prima facie* materials are made out and thereby the first respondent has filed final report. Therefore the petitioner has to appear before the trial Court and face the trial. Hence the petition has to be dismissed.

6. Heard both sides and perused the materials available on record.



7. On perusal of the record, it is observed that there existed dispute between the parties and as per the complaint the petitioner along with other have gone to the place of occurrence and set fire to the property of the defacto complainant. When the same was questioned by the defacto complainant the petitioner along with other accused persons have abused her, assaulted her and also criminally intimidated her, thereby the respondent police has registered the First Information Report. Thereafter, they examined the witnesses, since *prima facie* materials available as against the accused persons, the first respondent police have filed the final report and the same has been taken cognizance by the learned Judicial Magistrate, Uthamapalayam in C.C. No.485 of 2022. Since the police have filed final report and the Court had also taken cognizance after satisfying that *prima facie* case is made out as against the accused persons, at this stage, this Court is unable to invoke inherent powers under Section 482 of Cr.P.C and hence the petition is liable to be dismissed.

8. Accordingly this Criminal Original Petition stands dismissed. However liberty is granted to the petitioner to raise all the grounds raised in this petition before the trial Court. Since the case pertains to the year 2019, it is appropriate to direct the trial Court to complete the trial proceedings within the stipulated time. Accordingly the trial Court is directed to complete the trial proceedings as early as possible



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preferably within a period of six months from the date of receipt of a copy of this order.

21.07.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

1. The Judicial Magistrate, Uthamapalayam
- 2.The Sub Inspector of Police
Uthamapalayam Police Station,
Theni District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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P. DHANABAL,J.

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