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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 20/06/2023

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The Hon'ble Mr. Justice **G. ILANGO VAN**

WP (MD) No. 13871 of 2023

N. Sanmuganathan : Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City.

2. The Assistant Commissioner of Police,
O/O. Assistant Commissioner of Police,
Junction Range,
Tirunelveli City.

3. The Inspector of Police,
Central Crime Branch,
Tirunelveli City.
(In Crime No. 01 of 2022)

4. Perumbadaiyur : Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, directing the 1st respondent to issue necessary direction to the respondents Nos. 2 and 3 to remove section 3(1)(g) of SC/ST (Prevention of Atrocities) Act, pertaining to Crime No. 01 of 2022 pending on the file of the 3rd respondent in connection with charge sheet in SC No. 105 of 2022 pending on the file of the II Additional District and Sessions Court, (PCR), Tirunelveli, on the basis of the



For Petitioner : Mr.P.Krishnasamy

For R1 to R3 : Mr.B.Nambiselvan
Additional Public Prosecutor

Writ Petition has been filed seeking for direction to the respondents Nos.2 and 3 to remove section 3(1)(g) of SC/ST (Prevention of Atrocities) Act, pertaining to Crime No.01 of 2022 pending on the file of the 3rd respondent in connection with charge sheet in SC No.105 of 2022 pending on the file of the II Additional District and Sessions Court, (PCR), Tirunelveli, on the basis of the petitioner's representation, dated 17/04/2023.

The property comprised in re-survey No.12/1B2, Plot No.HIG 25 situated at V.M.Chathiram, Palayamkottai Taluk, Tirunelveli District, originally belongs to one Bheeman. He let out the property in 1997 to the petitioner and he was in possession and till now, he is in possession. The Bheeman filed a petition in RCOP No.39 of 2008 before the Rent Controller, for eviction. That



was allowed, on 05/11/2009. Against which, he filed RCA No.1 of 2010 before the Rent Control Appellate Authority, Tirunelveli. That was dismissed, on 05/07/2010. Later he filed EP No.152 of 2010 in RCP No.39 of 2008 for stay. In the meantime, CRP(MD)No.2697 of 2010 was filed before this court and interim stay was also granted. Pending the above said CRP before this Court, Bheeman sold the property to the 4th respondent namely Perumbadaiyar, on 30/12/2011. Later, CRP was dismissed. Even though, it was brought to notice of this court that Bheeman already sold the property to the 4th responded, later Bheeman filed EA No.579 of 2017 to implead the 4th respondent as a party. That was allowed. Against which, he filed CRP(NPD) (MD)No.2427 of 2018, wherein interim stay was also granted. CRP(NPD) (MD)No.2427 of 2018 was allowed, on 04/06/2019. That was allowed on the ground that the sale of the property was not properly brought to the knowledge of this Court. Subsequent to that, EP No.152 of 2010 filed by Bheeman was dismissed, on 01/08/2019. The 4th respondent in order to take the possession of the property with the help of the rowdy elements by giving a wrong interpretation to the order passed by this court, pending all the above said proceedings, the 4th respondent



made to change the house tax also and electricity connection, etc. Over the above said criminal activity, a complaint was filed by the wife, which was also registered in Crime No.28 of 2021 and final report was also filed. Later this petitioner filed Crl.OP(MD)No.6093 of 2020 seeking a direction not to harass the petitioner under the guise of enquiry. A false complaint has been given by the 4th respondent in the civil issue, over which, a case in Crime No.488 of 2020 was registered. Now after investigation, it was found to be Mistake of facts, on 07/06/2021. The petitioner filed Crl.OP(MD)No.10188 of 2022 seeking quashment. It was dismissed on the ground that already FIR was closed as 'Mistake of Facts'. Later the petitioner filed WP(MD)No.22386 of 2022 to delete the names from the records. That was also allowed. Later another complaint was given, which was registered in Crime No.01 of 2020. The de-facto complainant filed Crl.OP(MD)No.4630 of 2022 seeking quashment of the offence under the Special Act. That was also allowed without giving notice to the petitioner. Since already the earlier complaint was closed as 'Mistake of Fact', registration of the another complaint is bad under law. The petitioner's legal possession of the property under



dispute. Later, he filed WP(MD)No.17842 of 2022 seeking cancellation of the sale deed executed by the above said Bheem in favour of the 4th respondent. That was also ordered. But later refused to cancel the sale deed. Against which, WP(MD)No.191 of 2023 was filed, that was allowed on 19/10/2023. Now, the investigation is completed and final report was filed against the petitioner in Crime No.105 of 2022, pending before the II Additional District Judge, Tirunelveli. On the basis of the previous proceedings, he made representation to delete his name from the final report and that was not considered. Hence, this writ petition.

3.Heard both sides.

4.This is the second attempt made by the petitioner to quash the proceedings. The first attempt was made by him along with the co-accused namely Santhi and two others which was filed in Cr1.OP(MD)No.17047 of 2022. It was filed on the ground that by misrepresenting the the order passed by this court in Cr1.OP(MD)No.2427 of 2018, a false case has been foisted upon them under the provisions of Special Act.



5. Finding that repeated petitions are being filed by this petitioner to prevent the owner of the property to get the property delivered cost of Rs.10,00,000/- was imposed upon the petitioner. That order was passed, on 09/01/2023. Even at the time of hearing, it was brought to the notice of this court that repeated petitions have been filed by this petitioner seeking the very same reliefs namely WP(MD)Nos.23794 of 2022 and 24518 of 2022. The conduct was habitual. After recording the finding that it is clear abuse of process of court and law, the above said heavy cost was imposed. Before whom the trial is pending was also directed to collect money through proper proceedings and pay the same to the de-facto complainant.

6. In spite of the above said order, heavy condemnation and imposition of costs, the petitioner has not corrected himself. He has chosen to file this writ petition for the very same relief by using different language and invoking jurisdiction under Article 226 of the Constitution of India. This is the another attempt on the part of the petitioner to misuse the process of the court.



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7. When the petitioner's counsel started to strengthen the matter, I warned him, unless the above said cost is paid by him, he cannot be heard. But he would submit that filing of the second petition for quashment is permissible under law and he must be permitted to argue the matter. He was heard on the ground on which this petition came to be filed. When he already exercised the power under section 482 Cr.P.C, he wants to argue the very same factual grounds.

8. I find absolutely no new ground has been raised except stating that EP that was filed by the de-facto complainant came to be dismissed, after considering the merits. So according to him, a civil issue has been given criminal colour and false case in Crime No.488 of 2020 has been foisted under the Special Act. According to him, it is a clear case of abuse of process of court and law. The above said case was registered for the offences under sections 3(1)(g) of the SC/ST Act. It was closed as Mistake of Fact. So according to him, the Act was misused not only by the petitioner, but also the de-facto complainant herein.



9.The above said fact was informed to this court in CrI.OP(MD)No.1088 of 2022, which was filed by this petitioner along with the co-accused, seeking quashment of the investigation in Crime No.488 of 2020. So according to him, after the closure of the above said complaint only, the present final report has been filed. Later he filed WP(MD)No.2286 of 2022 seeking removal of the name of the persons mentioned in Crime No.488 of 2020, from the criminal record maintained by the police Department and that was also allowed. So, by referring to the factual circumstances of the case, he would submit that the Hon'ble Supreme Court in the case of B.Venkateswaran and others Vs. P.Baakthavatchlam (Criminal Appeal No.1555 of 2022 @ SLP (CrI)No.3411 of 2021 has observed that when civil disputes are pending between the parties, invocation of the provisions under the Special Act will not be attracted. So, according to him, since A2 is giving colour of criminality to the civil issue, their name must be deleted from arraying the accused.

10.In the light of the above said, we can once again go to the allegation made against the first



petitioner in the final report. The de-facto complainant is the Perumbadaiyar has lodged a complaint stating that he purchased the property under dispute, on 07/02/2011 from one Bheeman. At that time, one Shanmuganathan, who is the petitioner herein was the tenant under the vendor. After decree, EP No.152 of 2010 was filed by Bheeman in RCOP No.79 of 2008 for delivery. Delivery was effected against which A1 filed RC No.1 of 2010 and that was dismissed. Against which, this petitioner filed CRP No. 2627 of 2020. that was also dismissed. Another petition was filed by this petitioner in CMA No.2427 of 2018 and in that, the de-facto complainant was given liberty to initiate fresh proceedings for eviction. Pending the above said proceedings, this petitioner alleged to have executed a sale deed in favour of his wife namely Santhi as if the property belongs to him. A3 and A4 signed as witnesses. This is the substance of the above said complaint.

11.The offence now alleged is not that that the property belongs to the de-facto complainant, who belongs to SC community, the accused created false document. So this court is completely at loss to understand how the



petitioner can say that it is a civil issue. Even as per the case of the petitioner, the property does not belong to him and he was only the tenant. It is not the case of the petitioner that he is owner of the property. So, it is completely a matter for trial and as observed by this court in CrI.OP(MD)No.17047 of 2022, the petitioner wants to keep the premises endlessly. He has misused the court by filing repeated petitions. If one fails, he initiate another action by invoking other provisions of law. This is an abuse process of court. I am of the considered view that that this petition also to be dismissed with exemplary costs. But this court is not imposing another costs,since he was already penalised with exemplary costs. Suffice to say that the petitioner must stop such sort of abuse the process of the court, otherwise stringent action will be taken against him.

12.With the above said observation, this petition stands dismissed. No costs.

20/06/2023

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Internet:Yes/No

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To,

- 1.The Commissioner of Police,
Office of the Commissioner of Police,
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- 3.The Inspector of Police,
Central Crime Branch,
Tirunelveli City.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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WP (MD) No.13871 of 2023

20/06/2023