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CRL.OP.(MD)No.16889 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.11.2022

DELIVERED ON : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)No.16889 of 2022

and

CRL.MP.(MD).No.11302 of 2022

1. Salai Vetri
2. Salai Vithahan
3. Narayanasamy @ Narayanan : Petitioners/Accused 2 to 4

Vs.

1. The Deputy Superintendent of Police,
Pudukkottai,
Pudukkottai District.
2. The Inspector of Police,
Vellanur Police Station,
Pudukkottai District. : Respondents/Complainants
(Cr.No.121/2019)
3. Nallaiah : 3rd Respondent/
De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in Spl.S.C.No.11 of 2021 on the file of the Special Judge for SC/ST (Prevention of Atrocities) Act/3rd Additional District & Sessions Judge (PCR Unit), Pudukkottai and quash the same against the Petitioners.

For Petitioners : Mr.M.Ramu

For Respondents : Mr.R.Siva Kumar

Government Advocate (Crl. Side) for R1& R2

: Mr.K.Balasundaram for R3

ORDER



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This Criminal Original Petition has been filed to quash the charge sheet in Spl.S.C.No.11 of 2021 on the file of the Special Judge for SC/ST (Prevention of Atrocities) Act/3rd Additional District & Sessions Judge (PCR Unit), Pudukkottai.

2. It is the contention of the learned Counsel for the Petitioners that the first Accused is the lessee with the SIPCOT, Pudukkottai. After getting the lease, he had sub leased a portion of the same to the third Respondent/*De facto Complainant*. As per the lease agreement between the first Accused and the third Respondent, the third Respondent had to pay the lease amount through the first Accused to the SIPCOT, Pudukkottai. Even though the agreement lease period expired, still there was outstanding with the first Accused.

3. As such, the third Respondent ought to have surrendered the property to the first Accused. Instead he wanted to extend the lease, for which the first Accused was not willing. To force the first Accused not to evict the third Respondent, the third Respondent had filed a Suit in O.S.No. 1 of 2019 before the District Munsif Court, Pudukkottai. The first Accused as Defendant entered appearance and filed written statement. However, the



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learned District Musif, Pudukkottai had not granted any favourable Order resisting eviction by due process of law. Aggrieved by the same, the third Respondent with an ulterior motive had preferred the Complaint.

4. The learned Counsel for the Petitioners invited the attention of this Court to the ingredients of the Complaint as made out in the FIR. Also, he would submit that after registration of the case, the second Respondent had proceeded with the Complaint and after due investigation had laid the final report before the PCR Court, Pudukkottai in Spl.S.C.No.11 of 2021. The learned Counsel for the Petitioners would further submit that the Provisions of the SC/ST Act will not be attracted in this case.

5. The learned Counsel for the Petitioners also invited the attention of this Court to the Provisions of Sections 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, Sections 3(1)(r), 3(1)(s), 3(1)(f), 3(1)(g) and 3(2)(va) of Tamil Nadu Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, Section 3(1) of Tamil Nadu Public Property (Preventive of Damage and Loss) Act, 1992 and Section 506(2) IPC, as none of the offences are attracted. It is the contention of the learned Counsel for the Petitioners that instead of



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surrendering the leased out premises/property to the first Accused, the third Respondent had misused the provisions of law to harass the first Accused and the Petitioners herein to evade from due process of Court. Therefore, he seeks to quash the Charge Sheet.

6. The learned Additional Public Prosecutor for the Respondents 1 and 2 would submit that the offences are made out even though it is a closed premises. It is to be treated as view from public place and none of the offences are found false. It holds good. The submission of the learned Counsel for the Petitioners will be considered only during the trial and not by this Court exercising extraordinary powers under Section 482 Cr.P.C.,

7. The learned Counsel for the third Respondent/*De facto Complainant* and the learned Additional Public Prosecutor had vehemently objected the line of the argument of the learned Counsel for the Petitioners stating that the submission made by the learned Counsel for the Petitioners is to be treated as valuable defence available to the Petitioners during trial. It is the case of the third Respondent that where the place of offence stated by the Petitioners is not a public place and it is a closed place is to be treated as defence of the Accused and it is not a ground to quash the charge



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sheet against the Petitioners in Spl.S.C.No.11/2020.

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8.Point for consideration:

Whether the Charge Sheet in Spl. S.C.No.11 of 2021 on the file of the learned Special Judge for SC/ST (Prevention of Atrocities) Act/III Additional District and Sessions Judge (PCR Cases), Pudukkottai, is to be quashed?

9.On consideration of rival submissions, it is found that the alleged occurrence is said to have taken place in the leased premises. As rightly pointed out by the learned Counsel for the Petitioners, it is a closed premises. To attract Provisions of SC/ST Atrocities Act, the Complainant belonging to SC/ST Community should have been ill-treated and abused in filthy language causing mental agony in full public view. As rightly pointed out by the learned Counsel for the Petitioners, when the third Respondent had instituted the Suit in O.S.No.1/2019 before the learned District Munsif against the Petitioners herein for bare injunction and he could not succeed in the suit before the learned District Munsif as the Trial Court had not granted any interim Order against the landlord/Petitioners herein. On perusal of the typed set filed by the Petitioners, it is found that suit in O.S.No.1 of 2019 was filed on 31.12.2018 whereas this FIR was registered on 30.10.2019. Therefore, as an after thought, the case had been instituted, is found reasonable as the ingredients available from the statement recorded



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by the Investigation Officer from the Witnesses that the alleged occurrence said to have taken place in a closed premises. The dispute is with regard to the lease. Therefore, the Provisions of SC/ST (Prevention of Atrocities Act) and Tamil Nadu Prohibition of Harassment of Women Act are not at all attracted. A Civil litigation is converted into a criminal case by misusing the Provisions of SC/ST Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, to settle a score. The Petitioners, who are the lessee with the SIPCOT, have sublet the Premises to the third Respondent. The third Respondent had not paid the dues through the Petitioners to the SIPCOT. Therefore, the Petitioners, as Defendants in the Suit before the learned District Munsif, had filed written statement disputing the contention of the third Respondent, as Plaintiff in O.S.No. 1/2019, which had caused the third Respondent to settle the scores against the Petitioners invoking the special Provisions of SC/ST (Prevention of Atrocities) Act and Tamil Nadu Prohibition of Harassment of Women Act, 2002. Therefore, in the light of the guidelines issued by the Hon'ble Supreme Court in the ruling reported in ***AIR 1992 SC 604*** in the case of ***State of Haryana Vs. Ch. Bhajan Lal***, when the complaint is motivated with *mala fide* it is a ground for quashing of the complaint, charge sheet, FIR etc.



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In the result, **this Criminal Original Petition is allowed.**

The charge sheet in Spl.S.C.No.11 of 2021 pending on the file of the Special Judge for SC/ST (Prevention of Atrocities) Act/3rd Additional District & Sessions Judge (PCR Unit), Pudukkottai, is quashed. Consequently, the connected miscellaneous petition is closed.

13.06.2023

Index: Yes/No
Internet: Yes/No
dh



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To



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SATHI KUMAR SUKUMARA KURUP, J.

dh

1. The III Additional District
& Sessions Judge (PCR Unit),
Pudukkottai.
2. The Deputy Superintendent of Police,
Pudukkottai,
Pudukkottai District.
3. The Inspector of Police,
Vellanur Police Station,
Pudukkottai District.
4. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in

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