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Crl.O.P.No.21221 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.21221 of 2022

and

Crl.M.P.Nos.13823 of 2022

S.Ganesan

... Petitioner

Vs.

1.State Rep. by

The Inspector of Police,
D-1, Mambalam Police Station,
Chennai, Tamil Nadu-636 803.

2.M.Vignesh

3.M/s.Saravana Store Gold Palace Private Limited,
Rep. by its Managing Director,
No.28, Ranganathan Street,
Near Mambalam Railway Station,
Thiyagaraja Nagar,
Chennai-600 017.

... Respondents

(R3 Suo motu Impleaded as per order dated
13.03.2024 in Crl.O.P.No.21221/2022 and
Crl.M.P.No.13823/2022)



Crl.O.P.No.21221 of 2022

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in connection with C.C.No.659 of 2022 on the file of the XVII, Metropolitan Magistrate, Saidapet and to quash the same.

For Petitioner : Mr.V.Balakrishnan
For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)
For R2 : Mr.A.Prakash

O R D E R

This petition has been filed to quash the C.C.No.659 of 2022 on the file of the XVII, Metropolitan Magistrate, Saidapet, in which cognizance was taken for the alleged offence punishable under Sections 294(b) & 506(1) of IPC, against the petitioner.

2. The case of the prosecution is that the defacto complainant Vignesh has lend money to accused and when he asked for the money, quarrel started and accused verbally abused and threatened the complainant.

3. The learned counsel for the petitioner submitted that the petitioner went to Saravana Stores gold palace PVT. Ltd, T-Nagar to request the outstanding amount with regard to the supply of plastic items from Saravana



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Stores on 15.07.2021, at the same time the complainant came to the shop to ask for his amount from Saravana Stores, while this being so the complainant assumed that the accused is the manager of Saravana Stores and started abusing him in filthy language and lodged false complaint against under the impression that he was the manager of the Saravana Stores. The accused is not the manager of the Saravana Stores, he is only a supplier of plastic items to the Saravana Store who has been in their to request his outstanding amount. Whereas the complainant lodged a false complaint against the accused who never even met the complainant before and accused has got nothing to do with the alleged offences and has been falsely implicated in this case.

4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that based on the complaint lodged by the defacto complainant FIR has been registered in Crime No.659 of 2021 and after completing the investigation the case was taken in C.C.No.656 of 2022 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai.



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5. The learned counsel for the 2nd respondent submitted that on 28.09.2018, M/s.Saravana Store Gold Palace Pvt. Ltd., No.2, Rajiv Gandhi Salai, Karapakkam, OMR, Chennai-119, entered into a rental agreement with the mother of defacto complainant for taking 2nd floor premises belongs to our family. The rent amount was fixed at Rs.1,10,000/- per month. In the year 2020, they have closed the shop and failed to pay rent for 10 months. Even after deducting advance amount of Rs.6,00,000/- they have to pay remaining amount of Rs.4,40,000/-. Since, their Karapakkam branch was closed, we were forced to visit their T.N.office. He further states that on 30.06.2021, the petitioner / Accused herein introduced himself as the Manager of Saravana Stores Gold Palace Private Limited, T.Nagar, when he went to get my mother's rental due amount as they are liable to pay sum of Rs.4,40,000/- outstanding rent amount to my mother. Since her mother was unwell. She asked the defacto complainant, her son to collect the outstanding rent amount from the Saravana Store Gold Palace Private Limited, T.Nagar. On 15.07.2021, the defacto complainant visited Saravana Stores Gold palace private ltd., T.Nagar office to collect the rental amount, at that time the petitioner / accused herein voluntarily started to abuse and threaten the defacto complainant.



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6. This Court is of the view that, if at all any amount is to be paid by Saravana Stores Gold palace private Ltd., T.Nagar, the defacto complainant is entitled to work out the remedy before the TANPID Court as SARFASI proceedings already initiated as loan is declared NPA. The petitioner is also one of the victims and he has also a prima facie material against the Saravana Store, now the Saravana Stores Gold palace private ltd., which is under legal proceedings, and there is no prima facie material on the side of the prosecution. It is alleged that the petitioner threatened the defacto complainant on the day in the presence of the public by abusing him, but as there is no sufficient proof that he threatened the defacto complainant and the alleged eye-witnesses are closely associated with the defacto complainant who is an Advocate by Profession and also there is no independent witnesses from the public. Therefore, this Court is inclined to quash the proceedings in C.C.No.659 of 2022 on the file of the XVII, Metropolitan Magistrate, Saidapet, as there is no material ingredients against this petitioner. However, liberty is granted to the defacto complainant to work out all his remedy before the appropriate forum where legal proceedings are initiated for repayment of loan, in accordance with the law.



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7. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petition is closed.

28.03.2024

Index: Yes/ No

Neutral Citation: Yes/No

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To

- 1.The XVII, Metropolitan Magistrate,
Saidapet.
- 2.The Public Prosecutor,
High Court of Madras.

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