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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.20693 of 2022
and Crl.M.P.No.13537 and 13540 of 2022

1.M.Sheik Dawood

2.M.Usman Ali ... Petitioners

Vs.

P.Maharaja Nadar ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings in C.C.No.4746 of 2021 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mrs.AL.Gandhimathi

For Respondent : Mr.Ashok Menon

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ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in C.C.No.4746 of 2021 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, in which cognizance was taken for the offence punishable under Section 466 IPC.

2. The case of the prosecution is that the de facto complainant was a tenant under the petitioners for non-residential purposes in a shop portion at No. 95, Usman Road, T.Nagar, Chennai. The petitioners had obtained a plan for demolition and construction of a building from the Corporation of Chennai and had filed a petition for eviction in RCOP No. 1924 of 1998 before the learned Rent Controller, Chennai.

3. After the complainant's submission to the Corporation of Chennai, the said plan was rejected as invalid. Consequently, the petition for eviction was dismissed by order dated 26.03.2004. The petitioners appealed the decision in RCA.No.783 of 2004, and the appeal was allowed, resulting in an order of eviction. Aggrieved, the complainant filed a Revision in

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CRP.No.3351 of 2007 before this Court, which was disposed of on 12.08.2010 with the observation, “The tenant's possession is safeguarded by law itself, unless the landlord produces a proper and valid plan from the authority before the concerned execution Court, the tenant cannot be dispossessed.”

4. The learned counsel for the de facto complainant submitted that the accused had managed to obtain fresh planning permission by way of forgery, tampering, and altering the Town Survey Land Records. It was found that the extent of the said portion had been altered from 1098 sq.ft. to 1528 sq.ft. The accused committed forgery by altering the revenue records to obtain the plan for the demolition of the demised premises. This forgery was referenced in the counter statement filed by the Tahsildar, Guindy Mambalam Taluk, in W.P.No.22488 of 2013 and corroborated by communications from the appropriate revenue authorities. After obtaining a sanctioned plan for demolition through forgery, the accused filed E.P.No.284 of 2012. An ex parte delivery was ordered, and the complainant was forcibly dispossessed from the shop. This clearly indicates that the

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accused intended to evict the complainant by using the invalid plan. The complainant also filed necessary petitions against the accused to restore his portion of the shop and obtained several documents from the appropriate authorities showing discrepancies in the plan sanction and approval for the premises. The accused is charged under Section 466 of the IPC for creating forged documents.

5. Aggrieved, the landlord opposed this Court and prayed to quash the case, stating that the tenant filed the present application to harass them after the legal process had already led to the eviction. They argued that the struggle for eviction proceedings started in 1998 and, after exhausting all legal remedies, possession was taken through execution proceedings in 2010. However, in 2018, the de facto complainant alleged that the petitioners fabricated and tampered with the Town Survey plan land records regarding the extent of the property to obtain a fresh plan. Despite these allegations, the petitioners had already filed a writ petition before the Hon'ble Division Bench of this Court, resulting in W.P.No.22488 of 2013, dated 18.12.2013, where liberty was granted to give a comprehensive

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representation to the Commissioner, Chennai City Municipal Corporation. An enquiry was subsequently conducted by the Corporation of Chennai.

6. Although the Tahsildar, Guindy Taluk, initially reported an error in the area mentioned in the patta, the planning permission was sanctioned according to the Town and Country Planning Act and within the permissible limit. The actual area of the plot on site was 102.15 m² (1099.21 sq.ft.), while the revised area according to the Tahsildar's letter dated 24.10.2014 was 101.49 m² (1092 sq.ft.), with 819 sq.ft. (75%) of the plot area. However, the sanctioned plan by the Corporation of Chennai was for 527.35 sq.ft.

7. In light of these circumstances, the Regional Deputy Commissioner (Central) instructed officials to verify the patta's authenticity. The District Revenue Officer (DRO) responded on 29.05.2015, clarifying that the patta had been issued for an extent of 0.01.01.5 sqm in favor of M.Shaik Dawood and M.Usman Ali in T.S.No.5583/13, Block No.128 of T.Nagar. The individual extract mistakenly showed an extent of 0.04.42.0 sq.m. The

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Tahsildar was instructed to issue a fresh extract reflecting the correct extent of 0.01.01.5 sqm. The enquiry concluded that the plot area had been wrongly entered as 142 sq.m. instead of 101.50 sq.m., and the respondent had to obtain a revised plan for the correct area by surrendering the old sanctioned plan.

8. The authorities found no manipulation in the patta issued in the petitioner's name. The error in the plot's area was corrected, and the petitioners obtained a revised plan and constructed accordingly. Considering the proper enquiry and corrections made by the authorities, there is no evidence of forged records. Therefore, the complaint made by the tenant is deemed vexatious, intended to harass the landlord.

9. Therefore, this Court is inclined to quash the proceedings in C.C.No.4746 of 2021 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

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10. Accordingly, this Criminal Original Petition is Allowed and Consequently, the connected miscellaneous petitions are closed.

23.02.2024

Speaking Order/ Non Speaking Order
Index: Yes/ No
Neutral Citation: Yes/No

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To.

1.The XVII Metropolitan Magistrate,
Saidapet, Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104

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T.V.THAMILSELVI, J.

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