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W.P.No.26091 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2024

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

W.P.No.26091 of 2024

and

W.M.P.Nos.28497 & 28498 of 2024

M/s.Punjab & Sind Bank,
Rep.by its Zonal Manager,
Spencer's Towers, Anna Salai,
Chennai-600 104.

... Petitioner

Vs.

1.The State of Tamil Nadu Rep.by
The Commissioner of Police,
Vepery, Chennai-600 007.

2.The Inspector of Police,
J5, Shastri Nagar Police Station,
Besant Nagar, Chennai-600 090.

3.S.Srinivasan

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the letter issued by the 2nd respondent bearing No.Nil dated Nil signed on 02.08.2024, quash the same and to issue directions to the 2nd respondent or his sub-ordinates, not to harass the



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subordinate officials of the petitioner bank, by causing repeated individual notices and seeking en-masse personal appearance of the higher officials, by issuing summons.

For Petitioner : Ms.S.Sridevi

For R1 & R2 : Mr.S.Udayakumar
Government Advocate (Crl.Side)

ORDER

Notice issued by the Inspector of Police, J5, Shastri Nagar Police Station, suggesting the bank authority to settle the dispute amicably by refunding the balance auction amount paid by the complainant, otherwise, to face legal consequence, is now under challenge.

2. The learned counsel appearing for the petitioner submits that the complainant, who participated in the auction conducted by the bank under the SARFAESI proceedings, failed to pay the auction amount and hence after forfeiting 25% of the amount as per the SARFAESI Act, balance amount was paid to the complainant. However, under the guise of criminal complaint with the connivance of the respondent police, the bank officials are put under threat and forced to pay the money.

3. The facts as found in the complaint and the impugned notice



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indicates that the dispute between the bank and the auction purchaser been taken up for investigation by the respondent police, though it is purely civil in nature. The respondent police who registered the complaint is present today before this Court and she states that since the complaint discloses the concealment of encumbrance of the property by the bank authority, same has been taken up for investigation. The impugned notice indicates that on issuance of summons, bank staff attended the enquiry on 07.07.2024, 15.07.2024 and 23.07.2024, but no document produced to prove that they have not concealed any fact about the property while auctioning the property. Hence the impugned notice issued.

4. This Court finds that non production of document ought not to have been a cause for issuing the impugned notice which has been issued to the bank Manager by name and on threat of initiating the legal proceedings against the bank officials. Therefore, the impugned communication of the 2nd respondent is hereby quashed. The 2nd respondent is hereby directed to cause notice to the bank Manager for production of relevant documents for enquiry and the respondent police shall proceed only if the bank has deliberately suppressed and concealed



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the encumbrance of the property which was auctioned.

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5. With the above observation, this Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petitions are closed.

06.09.2024

rpl

To

1.The Commissioner of Police,
Vepery, Chennai-600 007.

2.The Inspector of Police,
J5, Shastri Nagar Police Station,
Besant Nagar, Chennai-600 090.

3.The Public Prosecutor,
High Court of Madras,
Chennai



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Dr.G.JAYACHANDRAN, J.

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