



CRL OP(MD)No.12651 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 20.02.2024

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THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL OP(MD)No.12651 of 2021

and

CRL.M.P(MD) Nos.6456 and 6459 of 2021

Benjamin Franklin

... Petitioner

Vs

1.State represented by
Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
(in Crime No.18 of 2018)

2.Asir Thambiraj

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the proceedings in S.C.No.201 of 2020, on the file of the learned Subordinate Judge, Kovilpatti, Thoothukudi District and to quash the same as it has no prima facie case as against the petitioner.

For Petitioner : Mr.K.Govindarajan
for M/s.G.Prabahari

For R1 : Mr.M.Sakthi Kumar
Government Advocate(crl.side)



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For R2 : No appearance

ORDER

Seeking to quash the final report in S.C.No.201 of 2020 on the file of the learned Subordinate Judge, Kovilpatti as against the present petitioner(A3), the present petition is filed.

2.The case of the prosecution, in a nutshell, is as follows:-

On 13.01.2018, the defacto complainant a Secretary of Tamil (Strict) Baptist Trust Society (in short 'the Society') went to meet his lawyer with regard to a civil dispute between the trust and the tenants. All the accused armed with sickle and stick came in a TATA Sumo four wheeler bearing Registration No.TN-69-AZ-7004 and a Bolero car bearing Registration No.TN-72-AF-4501 near to Sudarsanam Driving School at Kovilpatti Vakeel Street and attacked the defacto complainant. In the meantime, the vehicles bearing Registration Nos.TN-69-AZ-2350 and TN-69-AZ-9086 belonging to third parties got damaged. Based on the complaint given by the de facto complainant, the Sub Inspector of Police, Kovilpatti, registered an FIR in Crime No.18 of 2018 against six



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accused including the present petitioner for the offences punishable under Sections 147, 148, 294(b), 323, 307, 506(ii) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. The Inspector of Police, Kovilpatti East Police Station, Thoothukudi District, after concluding investigation, laid a final report in P.R.C.No.18 of 2018 before the learned Judicial Magistrate No.I, Kovilpatti. The learned Judicial Magistrate No.I, Kovilpatti, after furnishing copies of records to the accused under Section 207 Cr.P.C committed the case to the Court of Sessions. The learned Principal District Judge, Thoothukudi, took the case on file in S.C.No.201 of 2020 and made over the same to the Sub Court, Kovilpatti.

3.Mr.K.Govindarajan, learned counsel appearing for the petitioner would contend that the present defacto complainant is not a secretary of the Society and that he is one of the tenants in the property in Survey No. 608 of Kovilpatti. His further contention is that the suits for eviction were filed by the society against the tenants including the father of the de facto complainant. The said suits were decreed and the appeals filed by the tenants were also dismissed and as against the same, second



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appeals were filed by the tenants and the same were also dismissed by the Hon'ble Single Judge of this Court in S.A.Nos.1636 of 1990 etc. Against which, the tenants filed Special Leave to Appeal(Civil)No.20698 of 2012 before the Hon'ble Supreme Court. In the Supreme Court, the appeals filed by the tenants were dismissed and they all gave an undertaking before the Supreme Court that they would be vacating the land within a period of one year from the date of the order. Since they did not comply with the undertaking, a contempt petition was filed by the Society before the Supreme Court and the same was subsequently withdrawn and filed before this Court. According to the counsel for the petitioner, the said contempt petition is still pending.

4.Mr.K.Govindarajan, learned counsel for the petitioner would further contend that since the present defacto complainant had suffered a decree, he had lodged a false complaint against the present petitioner and others. He also drew the attention of this Court to the FIR and 161 (3) Cr.P.C. statements of the witnesses and contended that the police had not recovered the weapon from the accused persons and that the damage certificate was issued by the shop owner of the Auto Spare Parts. He



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would therefore contend that the offences under Sections 147, 148, 294(b), 323, 307, 506(ii) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992 would not be attracted to the present case.

5.Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Crl.Side) would contend that the police, after conducting proper investigation, laid a final report and there is no valid ground to quash the same.

6.It is seen from the records that the civil suits filed by the society against the tenants were decreed and went upto the Supreme Court, where the decree and judgment passed by the trial Court was upheld. All the tenants gave an undertaking to vacate the land within one year from the date of the order. The defacto complainant's father is one of the tenants in the said land. However, the defacto complainant had stated that he is the secretary of the Society. The police even without verifying this aspect had registered the FIR against the present petitioner. Apart from that, a mere perusal of the FIR and 161(3) Cr.P.C. statements show that no one is injured and the two wheelers, which are allegedly damaged



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in the instant case, belong to some third party and they have not given any complaint to the police in this regard and the Damage Certificate was also issued by the shop owner of the Auto Spare Parts. Therefore, the Inspector of Police had not conducted proper investigation and the real dispute between the parties seems to be civil in nature and they have to redress the grievance before the civil Court.

7. In these circumstances, the impugned proceedings in S.C.No. 201 of 2020 on the file of the learned Subordinate Judge, Kovilpatti, is quashed against the present petitioner alone. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

20.02.2024

Index :Yes/No
Internet :Yes/No
NCC :Yes/No
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To

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- 1.The Subordinate Judge,
Kovilpatti,
Thoothukudi District.
- 2.The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

R.HEMALATHA,J.



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