



CRL OP(MD). No.13599 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 05.03.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.13599 of 2022
and Crl.M.P(MD).Nos.8680 of 2022 and 14221 of 2023**

M.Veerakubendran

... Petitioner

Vs

1.The Superintendent of Police,
Theni District,
Theni.

2.The State Rep.by
The Inspector of Police,
Cumbum North Police Station,
Theni District.

3.The General Manager,
Cholamandalam Investment and Finance Company Limited,
2, NSC Bose Road,
Parris,
Chennai-600 001.

4.The Authorized Officer/Branch Manager,
Cholamandalam Investment and Finance Company Limited,
3-1-45/9, 2nd Floor,
Theni Cumbum Main Road,
Opp. To TNEB,
Theni,
Theni District-625 531.

... Respondents



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PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records in FIR in Crime No.201 of 2022 dated 28.06.2022 on the file of the second respondent Police and quash the same insofar as against the petitioner.

For Petitioner : Mr.C.Ezhilarasu

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
for R1 and R2
Mr.V.Sukumar for R3 and R4

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.201 of 2022 dated 28.06.2022 on the file of the second respondent Police, insofar as the petitioner is concerned.

2. The case of the prosecution is that the petitioner has availed housing loan from the fourth respondent Finance Company, however, he did not pay the installments regularly and therefore, possession of the property was taken by the Advocate Commissioner appointed by the learned Chief Judicial Magistrate, Theni, vide order dated 04.01.2022, in Cr.M.P.No.4978 of 2021, which was filed by the fourth respondent Company. When the fourth respondent and his officials went to see the



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property on 21.02.2022, the petitioner and his henchmen threatened them with dire consequences and on inspection of the property, it was found that the seal and lock were broken by the accused persons. Hence, the complaint.

3. The learned counsel appearing for the petitioner submits that the petitioner has filed an appeal in S.A.No.299 of 2021 before the learned Debt Recovery Tribunal, Madurai and the Tribunal has granted interim stay on 23.08.2021. Since the fourth respondent was disturbing the tenant, who is residing in the petitioner's premises, the tenant has filed a suit in O.S.No.18 of 2022 before the learned Judicial Magistrate, Uthamapalayam, against the petitioner and the fourth respondent. When the proceedings before the tribunal and the suit are pending, the second respondent Police has registered a criminal complaint against the petitioner on the basis of the complaint given by the fourth respondent. Hence, he prays for quashing of FIR in Crime No.201 of 2022 on the file of the second respondent Police.



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4. The learned counsel appearing for the respondents 3 and 4 submits that the petitioner has availed housing loan from the fourth respondent Finance Company Limited to the tune of Rs.26,89,540/- and has executed loan agreement and created an equitable mortgage by way of depositing the title deed as security. Since the petitioner has not repaid the loan amount, his account was classified as non-performing asset and the fourth respondent has issued a demand notice dated 22.03.2021, calling upon the petitioner and others to pay the outstanding amount, however, the petitioner and others have not paid the loan amount. Therefore, the fourth respondent has filed a petition under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Theni and the learned Chief Judicial Magistrate appointed the Advocate Commissioner for taking physical possession of the property, in pursuance of which, the Advocate Commissioner had taken physical possession and handed over the same to the fourth respondent. When the fourth respondent and their employees visited the property, it was found that the petitioner and others have broken the seal and lock and trespassed into the property. The petitioner and his henchmen threatened the fourth respondent and his henchmen with dire consequences, thereby,



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the fourth respondent has made a complaint before the second respondent, pursuant to which, the second respondent has registered a case against the petitioner. The issue raised in this Petition is a matter for investigation which can be decided only after completion of investigation. Hence, he prays for dismissal of this petition.

5. Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.

6. It appears that the petitioner has availed housing loan from the fourth respondent Financial Company, however, he did not repay the loan amount and therefore, possession of the property was taken by the Advocate Commissioner, based on the order of the learned Chief Judicial Magistrate, Theni, dated 06.12.2021 passed in Cr.M.P.No.4978 of 2021 and it was handed over to the fourth respondent. When the fourth respondent and their employees visited the property, it was found that the petitioner and others have broken the seal and lock and trespassed into the property. This Court is unable to understand as to how the petitioner



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is in possession of the property, when the possession of the property was handed over by the Advocate Commissioner to the fourth respondent Company. However, the grounds raised in this petition are matter for investigation and since disputed questions of facts are involved and suits are also pending, it cannot be decided by this Court at this point of time. However, liberty is granted to the petitioner and the fourth respondent to produce all the necessary documents before the second respondent Police and after receipt of the same, the second respondent Police is directed to conclude the investigation in Crime No.201 of 2022 as expeditiously as possible.

7. Accordingly, this Criminal Original Petition is dismissed.
Connected miscellaneous petitions are closed.

05.03.2024

NCC : Yes/No
Index : Yes/No
ssb

To
1.The Superintendent of Police,
Theni District,
Theni.

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2.The State Rep.by

The Inspector of Police,
Cumbum North Police Station,
Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J

ssb

**ORDER
IN
CRL OP(MD) No.13599 of 2022**

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