



Crl.O.P.No.8828 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8828 of 2023

and

Crl.M.P.Nos.5644 and 5645 of 2023

and Crl.M.P.No.2570 of 2025

Venkatesan

... Petitioner

Vs

Saravanan

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C., pleaded to call for records in STC No.142 of 2022 on the file of Judicial Magistrate No.2, Tiruvannamalai, Thiruvannamalai District and quash the FIR pending against the petitioners.

For Petitioner : Mr.D.S.Ramesh

For Respondent : Mr.G.Vinoth Kumar

ORDER

This Criminal Original Petition has been filed to quash the proceeding in STC No.142 of 2022 on the file of Judicial Magistrate No.II, Tiruvannamalai, Thiruvannamalai District.



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2. Heard both sides and perused the materials available on record.

3. The case of the respondent is that he is a practicing Advocate. While being so, the accused came to his house and used unparliamentary words and threatened him with dire consequences. It is further alleged that they entered into his house without any warrant and scolded him using filthy language. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the petitioner originally entered into an agreement for sale with the respondent in respect of the subject property owned by the respondent on 11.09.2014 and paid a sum of Rs.5 Lakhs as advance. Subsequently, the petitioner came to understand that the subject property belonged to the respondent's wife. Accordingly, the petitioner once again paid a sum of Rs.9 Lakhs in favour of the respondent's wife. Thereafter, the petitioner came to understand that the respondent's wife had only a share in her family property. Therefore, the petitioner does not want to proceed with the sale and demanded return of money. However, the respondent, who is an Advocate by profession,

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threatened the petitioner when he demanded the return of money.

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5. Therefore, the petitioner lodged a complaint before the Inspector of Police, Perunagar Police Station, Kancheepuram and he was issued with CSR No.106 of 2015 dated 17.08.2015. Pursuant to the said complaint, the police officials viz., the second and third accused in the present complaint, visited the respondent's house. In order to escape from the clutches of law, the respondent, being an Advocate misused the profession and lodged a private complaint on the above said allegations. Unfortunately, the learned Magistrate without even considering the facts and circumstances of the case, mechanically had taken cognizance and issued summons to all the accused persons.

6. In fact, the petitioner filed a suit for recovery of money as against the respondent and his wife in O.S.No.96 of 2017 on the file of the Additional District Court, (FTC), Kancheepuram. The said suit was decreed in favour of the petitioner by the Judgment and Decree dated 25.11.2021 for a sum of Rs.9,84,000/- with cost. However, so far, the respondent did not prefer

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any appeal. In order to execute the said Judgment and Decree, now the petitioner also preferred an execution petition and it is pending before the execution Court.

7. That apart, the respondent herein originally filed a complaint and after due enquiry, it was closed. Thereafter, the respondent filed a private complaint before the Judicial Magistrate II, Tiruvannamalai and sought direction under Section 156(3) of Cr.P.C. Pursuant to the direction of the learned Magistrate, the concerned jurisdictional Police conducted an enquiry and submitted a closure report before the Judicial Magistrate II, Tiruvannamalai. Thereafter, the respondent filed a private complaint and managed to take cognizance on the said complaint for the offences punishable under Sections 294(b), 448, 107, 362 read with Section 35 read with Section 511 of IPC.

8. Further, the petitioner lodged a complaint for the illegality committed by the respondent before the Bar Council of Tamil Nadu. After fulfilled enquiry, the Bar Council of Tamil Nadu found the respondent

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guilty and imposed a punishment of suspension of practice for a period of five years, which reflects the respondent's conduct. Though the suspension of practice was set aside by the Bar Council of India, from the Judgment and Decree passed by the civil Court, clearly establish the conduct of the respondent.

9. Therefore, the present complaint is nothing but a clear abuse of process of law and it cannot be sustained as against all the accused persons. Accordingly, the complaint in STC No.142 of 2022 on the file of Judicial Magistrate No.II, Tiruvannamalai, Thiruvannamalai District is hereby quashed as against all the accused.

10. This Criminal Original Petition is allowed. Consequently, connected Miscellaneous petitions are closed.

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Index: Yes/No
Speaking Order: Yes/No
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G.K.ILANTHIRAIYAN,J.

mn

To

1. The Judicial Magistrate No.II,
Tiruvannamalai, Tiruvannamalai District.
2. The Public Prosecutor,
High Court, Madras.

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