

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P.No.30638 of 2008

And

M.P.No.1 of 2008

1.S.K.S.Sivakumar

2.S.Jayanthi

... Petitioners

Vs.

S.K.S.Palanees @ Palanisamy

... Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.1295 of 2003 on the file of the Judicial Magistrate No.I, Tirupur, quash the same.

For Petitioners : Mr.K.Balakrishnan

For Respondent : No Appearance

ORDER

The accused 1 and 2 in C.C.No.1295 of 2003 on the file of the Judicial Magistrate No.I, Tirupur are the petitioners. The respondent filed the said private complaint against the petitioners and four others and that was taken cognizance by the learned Judicial Magistrate No.I, Tirupur and the same is sought to be quashed in this petition.

2.It is submitted by the learned counsel for the petitioners that a reading of the various complaints made in the complaint filed by the respondent shows no allegation of cheating conspiracy or defamation made out against the petitioners and therefore the complaint is liable to be quashed.

3.The learned counsel for the petitioners further submitted that the respondent and first petitioner are brothers and second petitioner is wife of the first petitioner. It is stated in the complaint that the petitioners along with other accused conspired with each other and cooked up false cases against the complainant namely, respondent herein and also degraded the complainant's reputation in society for the unlawful enrichment. The respondent

further stated in paragraph 3, 4 about the various cases filed by the first petitioner against the respondent and his son in Crime No.377 of 1996, 168 of 2001 and 418 of 2001. It is further stated in paragraph 6 that the first petitioner with the help of the fifth accused created sale deed in his favour on 18.12.1984 and the property which was subject matter of the sale deed originally belonged to the wife of the complainant by name Seethalakshmi and Seethalakshmi filed O.S.No.687 of 1997 for declaration of the sale deed in favour of first petitioner was null and void and the suit was decreed and the respondent also agreed that the petitioners admitted the decree and joined in the execution of sale deed by Seethalakshmi in favour of Radhambikai. He therefore, submitted that even assuming that the sale deed obtained by first petitioner was declared as null and void, the first petitioner accepted the decree and joined the execution by attesting sale deed executed by Seethalakshmi as a witness and therefore, the petitioners cannot be found guilty of initiating.

4.The learned counsel for the petitioners further submitted that in paragraph 7, it was stated that the first petitioner sold the property belonging to the complainant to one Vetrivel on 01.10.1975 and also executed sale deed in respect of S.F.676 of Thottipalayam village on 31.03.1965 and in respect of those transaction, the private complaint was filed in the year 2003 and no details regarding the ownership of the property was stated and the sale deed dated 01.10.1975 was also not enclosed along with the complaint. He therefore submitted that the allegations made in the complaint do not make out any case against the petitioners and therefore, the complaint is liable to be quashed.

5.The respondent was served and his name was printed in the cause list and there was no representation for the respondent.

6.A reading of the complaint filed by the respondent would make it clear that no allegations were made against the petitioners for offence punishable under Section 420, 120 (b) IPC. As rightly submitted by the learned counsel for the petitioners, in paragraph 3 and 4, the respondent mentioned about the various cases filed by the first petitioner against the respondent and in respect of O.S.No.516 of 1987 filed by the wife of the respondent, though the suit was decreed in favour of wife of the respondent, the petitioners accepted the decree and joined in the execution of sale deed by the respondent's wife in favour Radhambikai by attesting the document. Therefore, it cannot be stated that the petitioners have committed the offence of fraud or forgery in respect of the sale deed dated 18.12.1984 which was the subject matter of O.S.No.516 of 1987. As regards allegations in paragraph 7 regarding the ownership of the property and the sale deed dated 01.10.1975, the sale deed dated 01.10.1975 was not filed along with the complaint and no details were stated about the title of the complainant in respect

of S.F.676 and the absence of any details, it cannot be stated that the petitioners have committed the various offences. Therefore, a reading of the complaint according to me does not disclose any offence made against the petitioners.

7.In the result, this criminal original petition is allowed and the complaint in C.C.No.1295 of 2003 on the file of the learned Judicial Magistrate No.I, Tirupur is quashed. Consequently, the connected miscellaneous petition is closed.

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-s/d-

Deputy Registrar(J)

Dt:12/2/2015

True Copy

Sub-Assistant Registrar

To

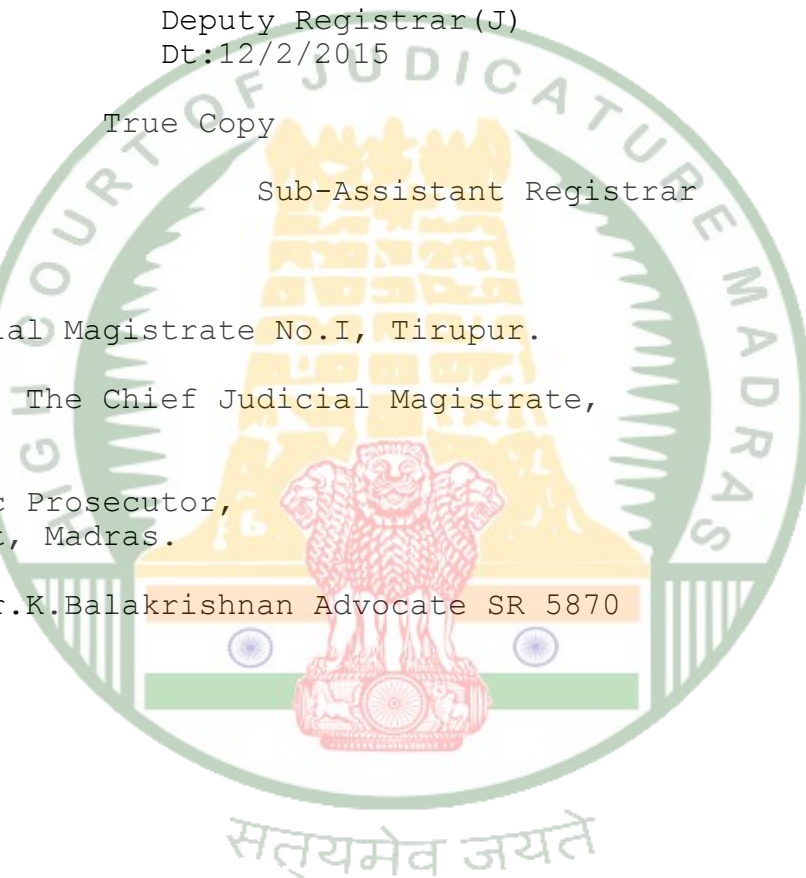
1.The Judicial Magistrate No.I, Tirupur.

2.-do- thro' The Chief Judicial Magistrate,
Tirupur.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.K.Balakrishnan Advocate SR 5870

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