

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.28287 of 2015

and

M.P.No.1 of 2015

G.R.Ramachandrappa ... Petitioner/Accused

Vs.

1.The State of Tamil Nadu,
rep. by the Sub Inspector of Police,
Thali Police Station, Thali,
Krishnagiri District.
Crime No.518 of 2015.

2.G.M.Lakshmi Narasimma Murthy

... Respondents/Complainant & Defacto Complainant

Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records relating to the FIR in Crime
No.518 of 2015 on the file of the first respondent police and
quash the same.

For Petitioner : Mr.P.Mani

For Respondents : Mr.C.Emalias,
Addl. Public Prosecutor, for R.1

ORDER

The present criminal original petition has been filed
by the petitioner to quash the FIR in Crime No.518 of 2015 on
the file of the first respondent police.

2. The petitioner is an accused in Crime No.518 of
2015 on the file of the first respondent police for the alleged
offence under Sections 406 and 420 I.P.C. The second respondent
is the de facto complainant.

3. It is the case of the petitioner that he and his wife and daughter have jointly purchased 3.56 acres of agricultural land situated at Gummalapuram Village from the second respondent and five others for a sum of Rs.54,32,560/- as per the registered sale deed dated 11.8.2015, registered on 23.9.2015 in the office of the Sub Registrar, Kelamangalam. Initially, they paid a sum of Rs.5,00,000/- as advance in the form of cheque dated 16.3.2015 drawn on ING Vysya Bank, Bommanahalli Branch. Though the advance amount was paid in March 2015, the second respondent did not come forward to execute the sale deed and after several request, the second respondent came forward to execute the sale deed on 11.8.2015. When the petitioner went to the Registrar Office along with balance sale consideration in the form of cash, the second respondent refused to get the same and insisted the petitioner to pay the balance sale consideration in the form of demand draft. Hence, the sale deed was not registered on 11.8.2015. Thereafter, the petitioner took two demand drafts bearing Nos.679824 and 679825 for a sum of Rs.40,60,000/- and Rs.5,00,000/- respectively drawn on Kotak Mahindra Bank and requested the vendors to come and execute and register the sale deed. After several request, the vendors came forward to execute and register the sale deed on 23.9.2015. However, the vendors turned back and insisted the petitioner to pay the balance sale consideration in the form of cash. Hence, the petitioner paid a sum of Rs.44,32,560/- in cash and Rs.5,00,000/- by way of demand draft bearing No.679825 and the said fact has been incorporated in the sale deed. While writing the number of the demand draft in the sale deed, the petitioner gave both the demand drafts bearing Nos.679824 and 679825 to the document writer. When the petitioner returned to his house, he realised that the demand draft bearing No.679824 has been misplaced in the office of the Sub Registrar. Immediately, the petitioner contacted the document writer as well as the second respondent and enquired about the same. However, the said persons gave evasive reply. Hence, the petitioner sent a letter dated 23.9.2015 to Kotak Mahindra Bank on the next day stating that the said demand draft is missing and requested to stop payment. Subsequently, he came to know that the second respondent opened a new account in Indian Bank, Hosur Branch and tried to encash the said demand draft. Immediately, the petitioner sent a legal notice dated 2.10.2015 calling upon the second respondent to return the said demand draft. However, the second respondent sent a reply dated 12.10.2015 stating that the demand draft has been given as part of the sale consideration and that in the said deed, it has been wrongly stated as if cash was paid instead of demand draft. Thereafter, the petitioner sent rejoinder notice stating that he paid cash amounting to Rs.44,32,560/- and the said amount has been deposited by the second respondent in the Primary Land Development Bank, Hosur and Pallavan Bank, Hosur and the bank officials from the Land

Development Bank came to the Registrar Office and accepted the deposit after counting the cash. In this regard, the petitioner lodged police complaints on 25.9.2015 and 4.10.2015 as against the second respondent before the Madiwala Police, Bangalore. But, in order to escape from the criminal prosecution and as a counter blast to the criminal complaint, the second respondent lodged a false complaint before the first respondent police on 14.11.2015 as if the petitioner gave the demand draft towards sale consideration, got the sale deed executed and registered and subsequently stopped payment and thereby, cheated the de facto complainant. On the basis of the false complaint, FIR in Crime No.518 of 2015 has been registered. Thus, he prays for quashing the said proceedings.

4. I have heard the learned counsel on either side and perused the entire materials available on record.

5. The scope of Section 482 Cr.P.C. to quash the first information report is very limited. If the allegations made in the complaint do not constitute any offence, then the first information report can be quashed. Here, in the instant case, a reading of the complaint would clearly go to show that two demand drafts bearing Nos.679824 and 679825 dated 13.8.2015 have been handed over by the petitioner to the second respondent and the second respondent deposited the same in the bank for collection. But, the said demand drafts have been returned with an endorsement 'fund is not available'. Thus, he cheated the second respondent and hence, the allegation made in the complaint makes out a case under Sections 406 and 420 I.P.C. When the allegation made in the complaint makes out a clear case, I am not inclined to quash the first information report. Now, the case is under investigation and it is in pre-mature state. Therefore, at this stage, the first information report cannot be quashed.

6. In fine, the criminal original petition is dismissed. However, the petitioner is at liberty to work out his remedy after filing of the final report. The first respondent is directed to complete the investigation and file a final report as expeditiously as possible. Consequently, connected miscellaneous petition is closed.
sbi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Sub Inspector of Police,
Thali Police Station, Thali,
Krishnagiri District.

2.The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.P.MANI, Advocate Sr 63643.

CA/CO
KR/18/12

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