

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No. 28714 of 2011 & M.P. No.1 of 2011

1 S. Sivakumar

2 A. Ramasamy ...Petitioners/Accused No.1 & 2

vs.

The State
represented by the Inspector of Police
Karumathampatti Police Station
Coimbatore District
(Cr. No.1245 of 2011) ...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the entire records pertaining to the proceedings in Cr. No.1245 of 2011 on the file of the Inspector of Police, Karumathampatti Police Station, Coimbatore District and quash the same.

For petitioners Mr. V. Manohar
For respondent Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the entire records pertaining to the proceedings in Cr. No.1245 of 2011 on the file of the Inspector of Police, Karumathampatti Police Station, Coimbatore District and quash the same.

2 On the complaint lodged by one Rangasamy, the respondent police registered a case in Cr. No.1245 of 2011 on 12.11.2011 under Section 468 read with Section 109 IPC against one Sivakumar (A1), Ramasamy (A2) Jagannathan (A3) and one unnamed person, challenging which, Sivakumar (A1) and Ramasamy (A2) are before this Court.

3 Heard Mr. V. Manohar, learned counsel for the petitioners and Mr.C.Emalias, learned Additional Public Prosecutor appearing for the respondent.

4 On a reading of the FIR, it is seen that the de facto complainant has alleged that he is the owner of the property in question and that he received an advocate's notice

dated 29.09.2011 issued by Sivakumar (A1), wherein, it is alleged that the de facto complainant had entered into a sale agreement dated 15.09.2011 with Sivakumar (A1) for the sale of his property and had received an advance of Rs.8 lakhs and is not coming forward to execute the sale deed.

5 According to the de facto complainant, he does not know Sivakumar (A1) at all and that he has a dispute with Ramasamy (A2) and that Sivakumar (A1) has been set up by Ramasamy (A2) in order to make a false claim. It is the further stated in the complaint that Sivakumar (A1) has initiated arbitration proceedings in AOP No.408 of 2011 before the District Court, Coimbatore.

6 Mr. Manohar, learned counsel for the petitioners submitted that a purely civil case has been given a criminal colour inasmuch as the de facto complainant had entered into a sale agreement dated 15.09.2011 and after receiving the advance amount, he does not want to execute the sale deed on account of the increase in price of land and only in order to avoid his part of the contract, he has set up the aforesaid defence as if he had not executed the sale agreement.

7 There appears to be sufficient force in the submission of Mr.Manohar. However, the de facto complainant has not been impleaded as a party respondent in this case and therefore, no order prejudicial to him can be passed by this Court in his absence.

Hence, this Criminal Original Petition is dismissed with a direction to the respondent police to conduct a thorough investigation by looking into the aforesaid contention of the accused and if, during investigation, it is found that the allegations levelled by the de facto complainant are baseless, it is needless to state that the FIR shall be closed. Connected M.P. is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

cad

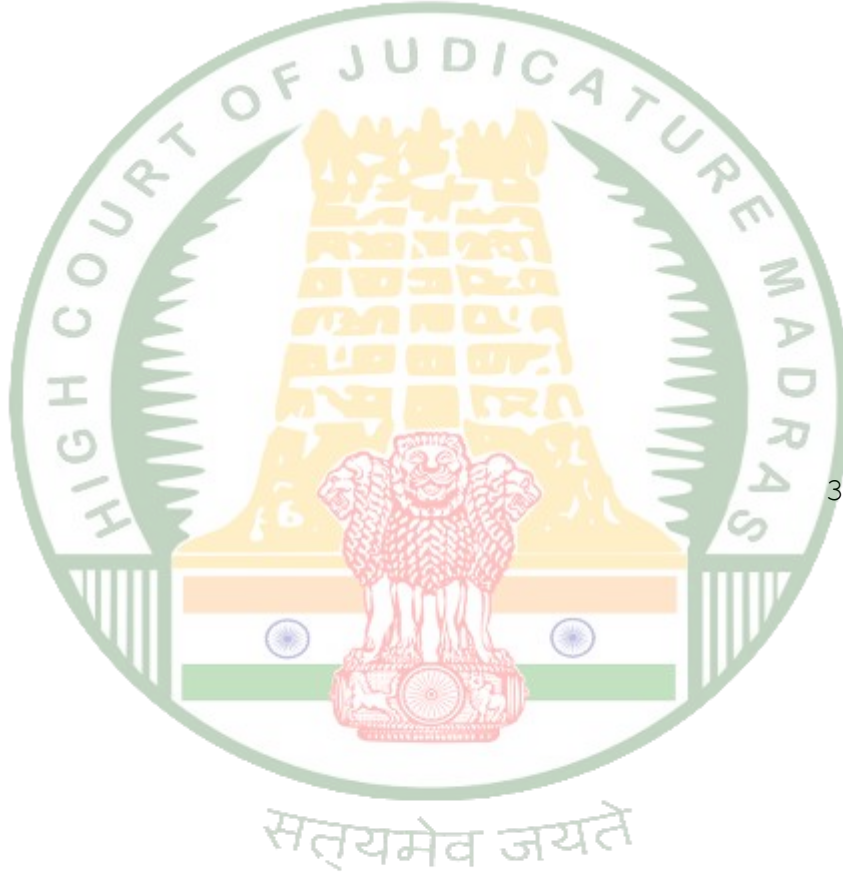
To

1 The Inspector of Police
Karumathampatti Police Station
Coimbatore District

2 The Public Prosecutor
High Court of Madras
Chennai 600 104.

Crl.O.P. No. 28714 of 2011

NRJK (CO)
MA (29/12/2016)



30.11.2016

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