

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 23.03.2017

CORAM
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Crl.O.P.No.21134 of 2011
and
M.P.No.1 of 2011

1.P.Dhamodaran
2.P.Balu
3.T.Srinivasan
4.T.Kanga Bai
5.Mohamad Iqbal
6.A.Anibha
7.K.Rajasekar
8.R.Vinoth @ Vinoth Krishtopher ... Petitioners

vs

1.The Inspector of Police,
Thakkolam Police Station,
Vellore District.
2.B.Kribhagaran ... Respondents

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to C.C.No.232 of 2010 on the file of the Judicial Magistrate, Arakkonam and quash the same.

For Petitioners : Mr.P.Vijendran

For Respondents : Mr.B.Ramesh Babu (for R1)

Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioners to call for the records in C.C.No.232 of 2010 pending on the file of the learned Judicial Magistrate, Arakkonam and to quash the same.

2. The second respondent, who is defacto complainant had lodged a complaint to the 1st respondent alleging that the petitioners have cheated him by creating false documents to grab the properties owned by him and his wife. Based on the complaint, the 1st respondent registered a case in Crime No.101 of 2009 under Sections 465, 466, 468, 471 read with 420, 120(b)

IPC. After completion of the investigation, the Sub Inspector of Police, Thakkolam police station filed charge sheet against the petitioners under Sections 120(b), 465, 468, 471, 294(b), 447 and 501(i) IPC. The learned Judicial Magistrate, Arakkonam has taken the cognizance of the case in C.C.No.232 of 2010 and issued summons to the petitioners.

3. Challenging the criminal proceedings in C.C.No.232 of 2010, the petitioners have filed this petition contending that the entire transactions according to the defacto complainant was civil in nature and there was no truth in the complaint. He would submit that petitioners 2, 4 and 5 have no way connected with even in the civil transaction and prayed for quashing of C.C.No.232 of 2010.

4. I heard Mr.P.Vijendran, learned counsel for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the 1st respondent and also perused the materials available on record.

5. The case of the defacto complainant is that he had purchased a total extent of 1.82 acres of lands in S.No.9A/1 - 1.38 acres and in S.No.9A/2 - 0.44 cents. His wife purchased total extent of 1.45 acres of lands in S.No.6A/1, 2 and S.No.8 in Nagarikuppam village and from the date of purchase they were in possession and enjoyment of the said lands. While so, during the year 2007, the petitioners have conspired to cheat the complainant by alienating the said properties by forging documents and used the same knowing them to be forged documents and thereby, committed the offence.

6. In their petition, the petitioners have alleged that during the course of investigation, the 1st respondent recovered documents from the 8th petitioner, but it neither submitted before the learned Magistrate, nor returned to the 8th petitioner. It has been stated that documents were handed over to the defacto complainant. Aggrieved by the same, the 8th petitioner filed CrI.O.P.No.13451 of 2010 before this Court and sought for direction to return the documents, wherein a direction was issued to the 8th petitioner to approach the learned Judicial Magistrate. When the 8th petitioner approached the learned Magistrate, Arakkonam, he returned the application endorsing that no such documents were filed before him. To substantiate the same, nothing has been produced by the petitioners.

7. According to the petitioner, the aforesaid single incident was enough to quash the criminal proceedings against the petitioners. It was also contended that the entire transaction was purely civil in nature and the defacto complainant, who is a lawyer was very well aware the civil

disputes involved in this case. Instead seeking remedy by way of civil suit, the defacto complainant used short cut method in order to threaten the petitioners.

8. It appears that the defacto complainant and the petitioners were claiming right over the properties stated supra. But the rights and ownership cannot be decided in this proceedings. It is for the defacto complainant and the petitioners to establish their right and title before the appropriate forum. However, no valid grounds have been made out by the petitioners to quash the criminal proceedings initiated against them. In the absence of any material, it cannot be contended that the charge sheet was filed by the Sub Inspector of Police in a hurried manner. No prima facie ground has been made out to interfere with the criminal proceedings pending in C.C.No.232 of 2010 at present.

9. The Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1.The Judicial Magistrate, Arakkonam.

2.The Inspector of Police,
Thakkolam Police Station,
Vellore Dist.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.18167

CrI.O.P.No.21134 of 2011 and
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rrs 29/10/2018