

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.06.2017

CORAM

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

CRL.O.P.No.25213 of 2011
and
M.P.Nos.1 and 2 of 2011

1.M.Vetrivendan
2.Muniappan

.. Petitioners

Vs

State Rep. by
Inspector of Police,
District Crime Branch,
Dharmapuri.
(Crime No.14 of 2009)

.. Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3 of 2009 pending on the file of the Judicial Magistrate No.1, Dharmapuri in Crime No.14 of 2011 on the file of the Inspector of Police, District Crime Branch and to quash the further proceedings so far as it relates to the petitioner herein.

For Petitioners : No Appearance

For Respondent : Mr.P.Govindarajan
Addl. Public Prosecutor

ORDER

This criminal original petition is preferred by the petitioner/accused against the proceedings in C.C.No.3 of 2009 pending on the file of the Judicial Magistrate No.I, in Crime No.14 of 2011 on the file of the Inspector of Police, District Crime Branch and quash the same.

2.I heard Mr.P.Govindarajan, learned Additional Public Prosecutor for the respondent and perused the entire materials available on record. No representation on behalf of the petitioners.

3. Brief case of the Petitioner/accused

The facts of the case is that the defacto complainant is one Siva approached the petitioner for purchasing land. The defacto complainant enter into a sale agreement on 23.7.2008 with the petitioner to an extent of 76½ cents and Rs.8,00,000/- and paid a part payment of Rs.5,00,000/- by registered document No.2078 of 2008 and balance amount of Rs.3,00,000/- with three months from the date of sale agreement and they should get the sale deed executed. But the petitioner/accused failed to execute the sale deed in favour of the complainant. The complainant verified the sale transaction and found that the owner of the land is one Vijendra Babu. The complainant along with some other person went to the house of the petitioner/accused and asked to return back the entire amount in harshfull manner. The complainant given a complaint to B1 Police Station Dharmapuri on 24.3.2009. The respondent police registered a case in Crime Number 636 of 2009 and charge sheet is filed in C.C.No.155 of 2009 and the same is pending trial before the Learned Judicial magistrate No.1 Dharmapuri. While being so, the complainant with knowing that already charge sheet filed, preferred a private complaint before the learned Judicial Magistrate under section 200 criminal procedure code in C.M.P.No.2923 of 2009 as though an occurrence said to have took place in front of the petitioner's house.

4. The learned Judicial Magistrate No.1, Dharmapuri ordered to investigate and forward the same to District Crime Branch Dharmapuri and a case was registered on 12.6.2009 in Cr.No.14 of 2009. On completion of the investigation, the respondent filed the charge sheet on 25.11.2009 in CC.No.3 of 2009 for the offences under section 120(b), 403, 417, 420, 465, 468 and 471 of IPC. Aggrieved over the same, this quash petition is filed.

5. The learned counsel for the petitioner/accused submits that the investigating office who took up the investigation without applying his mind mechanically filed the charge sheet for the occurrence that not yet have took place as alleged by the complainant more over the complainant itself had accepted in his complaint that there is pending complaint against the petitioner with regard to the issue before the same jurisdiction court learned Judicial magistrate NO.1 Dharmapuri pending CC.No.261 of 2009. No prudent man will go and indulge in same kind of act. The complaint itself speak to the effect that the complainant admitted in his complaint that he along with others went to the house of petitioner to get back the amount it would only show that the complainant is the author of the case. Initiating the proceedings is futile exercise of judiciary and clear abuse of process of court and the proceedings is liable to be quashed at the instant.

6.The learned counsel for the petitioner/accused submits that the witnesses cited in the both case pending in C.C.No.261 of 2009 and in C.C.No.3 of 2009 are interested and blood relative the complaint it is quite nature that they will only speak on the line drawn ought by the complainant and there is no independent witnesses to speak about this occurrence. Such being so, it is highly doubtful whether such occurrence might have took place as alleged by complainant and the complaint is motivated frivolous, and the entire proceeding is liable to be quashed. The complainant demand to return back the amount. The entire transaction between the parties are in civil nature and the complainant has to approach the civil forum for seeking out relief but instead to choose the criminal law by exaggerating as the petitioner attacked them and court ought not have taken the private complaint on file and ought not have refer the matter under section 156 clause 3 of criminal procedure code to the District Crime Branch.

7.The learned counsel for the petitioner/accused submits that there is no material evidence and independent witnesses to speak about the occurrence that where the complaint suffers any injury and such premises arrives at a conclusion that the proceeding are liable to be quashed.

8.In fact, the petitioner's counsel have not appeared before this Court to putforth their case. The petitioner has not produce any document to support his case. Therefore, all these grounds raised in this petition ought to be agitated only before the trial Court only. Hence, I am inclined to interfere at this stage and the petition is liable to be dismissed.

9.In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

vs

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
The Judicial Magistrate No.I,
Dharmapuri.

CRL.OP.No.25213 of 2011 and
M.P.Nos.1 and 2 of 2011

ssm(18/03/2019)