



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2017
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WEB COPY

CrI.O.P.(MD) No.10170 of 2017
and
CrI.M.P.(MD)Nos.6946 and 6947 of 2017

1.Ramachandran
2.Amutha
3.Annadurai
4.N.Arumugam
5.Parthipan

... Petitioners

-Vs-

V.Muthuramalingam

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.49 of 2017 under Sections 406, 420 and 506(ii) of IPC pending trail on the file of the Learned Judicial Magistrate No.I, Sivagangai and quash the same.

For Petitioners : Mr.R.Aravind Raj

O R D E R

This Criminal Original petition has been filed to call for the records pertaining to the case in C.C.No.49 of 2017 for the offences punishable under Sections 406, 420 and 506(ii) IPC pending trail on the file of the Learned Judicial Magistrate No.I, Sivagangai and quash the same.

2.The case of the petitioners is that the first petitioner executed registered deed of power of attorney in favour of the de-facto complainant in respect of land measuring an extent of 1 acre and 67 cents in survey No.7/2 situated at Thirlaudappu Pudur Village, Kanjiragal, Sivagangai District. It was stated that the de-facto complainant has preferred a complaint alleging that the petitioner executed the power of attorney deed after receiving a sum of Rs.10,00,000/- and further cancelled the said power of attorney without any prior notice to the de-facto complainant and failed to repay the money which was received by the first petitioner. The reading of the private complaint clearly disclose the offences as against the petitioners.

4.The learned counsel for the petitioners relied upon the



final report and the protest petition that was dismissed by the learned Judicial Magistrate No.I, Sivagangai by order dated 31.08.2016. It was represented that earlier, the respondent police has filed a final report stating that the dispute is purely civil in nature and that no action can be initiated. The de-facto complainant filed a protest petition in Cr.M.P.No.5184 of 2016, which was dismissed by the learned Judicial Magistrate No.I, Savagangai, with liberty to file a private complaint. The closure report and the dismissal of the protest petition cannot be a reason at this stage to quash the private complaint.

5.The allegations found in the private complaint are clearly specific to make out the offences as against the petitioners. In such circumstances, this Court is not inclined to entertain this petition. The contention of the petitioners that the power of attorney deed was cancelled after proper intimation to the de-facto complainant cannot be accepted as the cancellation of the power attorney deed was on 09.02.2010 and the notice to the de-facto complainant was only dated 13.02.2010. All the contentions of the petitioners regarding the merits of the complaint can be gone into only at this time of trial and it is inappropriate to quash the private complaint based the factual issues and this Court cannot entertain the plea of the petitioner that he is innocent and no offences is committed by him at this stage. Hence, this Court is inclined to dismiss the Criminal Original Petition. The learned counsel for the petitioners has approached this Court only to protract the proceedings as no other legal issue is raised or addressed before this Court to quash the proceedings.

6.Accordingly, the Criminal Original petition is dismissed with cost of Rs.1,000/- payable to the Chief Justice Relief Fund, Madras High Court, Madras. The personnel appearance of the petitioners is dispensed with, unless or otherwise it is specifically required by the lower Court. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

+1cc to Mr.R.Aravindraj, Advocate, SR.70018

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