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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.4926 of 2017

and

Crl.M.P. (MD) No.3486 of 2017

1.Rajamanikam

2.C.Veeramani

: Petitioners/Accused Nos.2 & 3

Vs.

1.The State rep.by

The Inspector of Police,

Kumbakonam West Police Station,

Thanjavur District.

:1st Respondent/Complainant

2.R.Suresh

: 2nd Respondent/De-facto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records in Crime No.72 of 2017 on the file of the 1st respondent police and quash the same.

For Petitioners

: Mr.J.Praveen

For Respondent 1

: Mr.A.P.Balasubramani

Government Advocate (Crl.side)

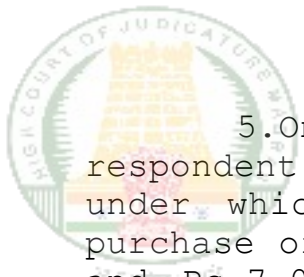
O R D E R

On the complaint lodged by the 2nd respondent, the first respondent police registered a case in Crime No.72 of 2017 on 05.02.2017 for offences under Sections 294(b), 323 and 506(ii) IPC against 3 accused, challenging which, A2 and A3 are before this Court.

2.Heard the learned counsel for the petitioners and learned Government Advocate for the respondent 1.

3.Today, Mr.C.Jeyachandran, Special Sub Inspector of Police, Kumbakonam West Police Station, Thanjavur is also present before this Court.

4.On a reading of the FIR, it is seen that the FIR has been registered pursuant to the order in CMP No.1420/2017 dated 05.02.2017 passed by the Judicial Magistrate No.2, Kumbakonam, under Section 156(3) Cr.P.C on the petition filed by the De-facto



5. On a reading of the complaint, it appears that the 2nd respondent and accused entered into sale agreement on 20.02.2015, under which, the 2nd respondent had given Rs.15 lakhs for the purchase of the property and later on, the agreement was cancelled and Rs.7,00,000/- (Rupees Seven Lakhs only) was returned by the accused to the De-facto Complainant. According to the De-facto Complainant, the accused did not have the title to the property, which is denied by the accused. Be that as it may, a sum of Rs.7,00,000/- has been admittedly returned. While so, it is alleged by the De-facto Complainant that on 10.12.2016, when he went to the accused and demanded the return of the balance amount of Rs.8,00,000/-, he was assaulted by the accused.

6. The learned counsel for the petitioner submitted that Anantha Raj(A1) was not in India on 10.12.2016 and he was in Malaysia. In order to recover Rs.8,00,000/-, the De-facto Complainant has contrived a story, as if, he was assaulted on 10.12.2016. The police initially refused to register an FIR and therefore, the de-facto complainant has gone to the Court and obtained order under Section 156(3) Cr.P.C.

7. There seems to be sufficient force in the submission of the learned counsel for the petitioner, inasmuch as the de-facto complainant is attempting to create a purely civil dispute into a criminal case. However, this Court directs the Deputy Superintendent of Police, Kumbakonam Sub division to monitor the investigation in Crime No.72/2017 on the file of the Inspector of Police, Kumbakonam West Police Station and if it is found that the contention of AnanthaRaj(A1) that he was not in India on the alleged date is true, it is needless to state that the entire FIR has to be closed.

8. With the above observation and direction, this petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police
Kumbakonam Sub Division, Thanjavur District.

2. The Inspector of Police,
Kumbakonam West Police Station,
Thanjavur District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.J.Praveen,Advocate,SR.20909

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