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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
CRL.OP.(MD) No.4944 of 2017

and

CRL.MP.(MD) Nos.3493 and 10336 of 2017

1.Lazer
2.George
3.Valsalam

:Petitioners/Accused Nos.1 to 3

Vs.

Yesupatham

: Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to C.C.No.247 of 2016 on the file of the learned Judicial Magistrate, Padmanabhapuram and quash the same.

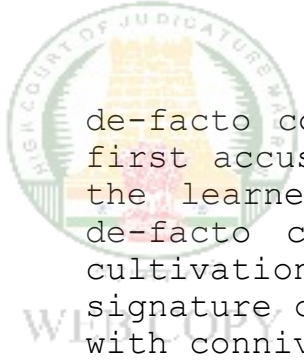
For Petitioners : Mr.K.P.Narayana Kumar
For Respondent : Mr.P.T.Ramesh

ORDER

This Criminal Original Petition is filed to call for the records relating to C.C.No.247 of 2016 on the file of the learned Judicial Magistrate, Padmanabhapuram and quash the same.

2.The petitioners are accused Nos.1 to 3 in a private complaint lodged by the respondent on the file of the Judicial Magistrate Court, Padmanabhapuram, in C.C.No.247 of 2016, for the alleged offences punishable under Sections 418, 420, 464, 468 and 471 of IPC r/w Section 34 of IPC.

3.The gist of the private complaint is that the respondent and his mother one Mariyanesam are owners of certain lands, wherein, they have planted new rubber sapling. It is further stated in the complaint that the first accused approached the complainant and his mother to lease out their property for a period of 40 months to plant pineapple as inter crops for a period from 01.08.2014 to 30.11.2017 and offered a sum of Rs.6,45,000/- as lease amount for the said period. It is further stated in the complaint that the first petitioner / first accused paid a sum of Rs.2,15,000/- as advance and agreed to pay the balance of Rs.4,30,000/- on or before 30.06.2015. It is further alleged in the complaint that after the first accused planted the pineapple, he did not pay the balance amount of Rs.4,30,000/-. It is further stated in the complaint that when the de-facto complainant / respondent and his mother demanded the balance amount, the first accused come out with a story that he had already paid the entire amount in the presence of the second and third accused and had also obtained a receipt from the

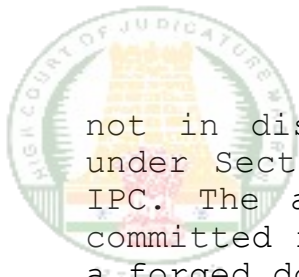


de-facto complainant. It is also alleged in the complaint that the first accused by producing the forged document, filed a suit before the learned Judicial Magistrate, Padmanabhapuram, restraining the de-facto complainant from preventing the first accused from doing cultivation. It is further stated in the complaint that the signature of the de-facto complainant has been forged in the receipt with connivance of the accused Nos. 2 and 3.

4.The case of the petitioners is that a lease deed was executed on 23.09.2014 for a period of 40 months for the cultivation of pineapple, in the land belonging to the de-facto complainant and his mother. It is further stated by the petitioners that on 23.09.2014, the complainant and his mother jointly received a sum of Rs.2,15,000/- by cash and on 25.05.2015, the de-facto complainant had received the balance amount of Rs.4,30,000. It is further stated that on 08.06.2015, the complainant along with some strangers damaged the cultivation and removed 3,500 pineapple fruits. It is contended that because of the conduct of the de-facto complainant, the first accused sustained a loss to the tune of Rs.1,40,000/-. It is stated that the first accused / first petitioner filed a suit in O.S.No.126 of 2015 on the file of the Subordinate Judge, Padmanabhapuram for injunction and for compensation to the tune of Rs.1,40,000/-. It is stated that on 13.01.2017, the de-facto complainant once again removed 1,400 pineapples and assaulted the first petitioner and that the first accused / first petitioner was constrained to file a subsequent suit, in view of the subsequent damages thereby the loss caused to him. It is stated that in relation to the second incident, a case in Cr.No.14 of 2017 was registered against the de-facto complainant for the offences punishable under Sections 427, 424(b), 324, 323 and 506(ii) of IPC.

5.The learned Counsel for the petitioners, referring to the complaint lodged by the first petitioner, submitted that the private complaint filed by the respondent is nothing but an abuse of process of law and the same will not stand before law. It is further stated that the respondent has made a complaint earlier, before the Anti-Land Grabbing Cell, Nagercoil and the same was closed on 22.08.2015, after conducting due enquiry. It was also stated that the complaint given by the respondent, to the Superintendent of Police, Kanyakumari District, was forwarded to the District Crime Branch, Nagercoil, who, in turn, after conducting due enquiry, closed the same on 14.07.2015, as the nature of the said complaint is identical with the same set of allegation. It is further contended that the private complaint is pre-mature, because the alleged forged document is filed before the civil Court where the suit is pending. Since the respondent herein is very well aware that he must agitate his claim before the competent Civil Court, it is stated that the complaint lodged by him is un-sustainable.

6.This Court heard the learned Counsel for the petitioners and <https://hcservices.ecourts.gov.in/hcservices/> respondent. It is not in dispute that the complaint was lodged by the respondent under Sections 200 r/w 190(1)(a) Cr.P.C. It is also



not in dispute that the complaint discloses the alleged offences under Sections 418, 420, 464, 468 and 471 of IPC r/w Section 34 of IPC. The allegations against the first petitioner is that he has committed forgery and the document, which was referred to by him, is a forged document, signed by the accused Nos. 2 and 3 as witnesses.

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7. Whether the first petitioner has committed an act of forgery?, is a question of fact. If it is proved that the signature of the respondent is forged, then the first petitioner is liable to be punished for the offences, irrespective of the fact that the civil suit is pending. When the respondent has given a complaint against the first petitioner for committing forgery, such complaint cannot be thrown out, merely because the suit filed by the first petitioner is pending. The commission of offences can be independently established. Merely because the genuineness of the documents is also an issue before the civil Court, the petitioners cannot contend that the dispute is purely civil in nature. There is no necessity to defer the criminal complaint or close the same, due to the pendency of the civil suit, initiated by the first petitioner against the respondent.

8. It appears that after filing the private complaint, on 17.10.2016, the first petitioner has given a complaint against the respondent in January 2017, for unauthorized cut and removal of 1400 pineapples by de-facto complainant, immediately after the filing of the suit in O.S.No.126 of 2015 by the petitioners. The respondent has lodged a complaint before the Superintendent of Police, Kanyakumari. Earlier complaint lodged by the respondent was closed, directing the parties to approach the civil Court without even registering the same. The present complaint clearly discloses cognizable offences and that therefore the private complaint has to be entertained.

9. In such circumstances, this Court is not in a position to entertain this petition, on the basis of the factual contentions denying the specific allegations made in the complaint. It is open to the petitioners to raise all their objections at the time of trial, since there are specific allegations against the petitioners. The learned Counsel for the petitioners has not pointed out any legal grounds. The pendency of the civil suit, has nothing to do, with the criminal complaint. The document produced before the Civil Court is stated to be forged. Merely because the civil suit is pending, this Court cannot quash the criminal case.

10. For the above reason, the criminal original petition is dismissed with a cost of Rs.1,000/- (Rupees One Thousand only) payable by the petitioners to the Honourable Chief Justice Relief Fund, Madurai Bench of Madras High Court within the period of two weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.



11. Registry is directed to post the matter "for reporting compliance" after a period of three weeks from the date of dispatch of this order.

Sd/-

Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

1 The Judicial Magistrate, Padmanabhapuram.

2 The Section Officer,
(Criminal Section),
Madurai Bench of Madras High Court,
Madurai. (Two Copies)

COPY TO:

The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.K.P.Narayana Kumar, Advocate SR.No. 93973

+1cc to M/S.P.T.Ramesh Raja, Advocate SR.No. 93320

CRL.OP.(MD) No.4944 of 2017
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cmr

JM/SKN RSK/SAR 2/29.01.2018/4P/7C