

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:21.08.2018

Coram:

The Honourable Mr.Justice P.Velmurugan

Crl.R.C.No.664 of 2015

1.P.Thangavel
2.E.Ethiraj
3.Smt.Poongavanam
4.E.Dinesh Kumar
5.Mrs.Premavathi .. Petitioners/Accused 1 to 5

/versus/

State by:The Inspector of Police,
District Crime Branch,
Kancheepuram Taluk & District,
(Crime No.83/2012) .. Respondent/Complainant

Criminal Revision Case is filed under Section 397 of Criminal Procedure Code praying to set aside the order dated 07.04.2015 passed in Crl.M.P.No.562/2015 in C.C.No.303 of 2014 on the file of the Judicial Magistrate-II, Chengalpattu, in Crime No.83/2012 on the file of the respondent complainant, registered offences under Sections 120(b), 420, 423, 465, 468 & 471 IPC.

For Petitioners :Mr.R.Thanjan

For Respondent :Mr.R.Ravichandran,
Government Advocate (Crl.Side)

O R D E R

Criminal Revision Case is filed seeking to set aside the order dated 07.04.2015 passed in Crl.M.P.No.562/2015 in C.C.No.303 of 2014 on the file of the Judicial Magistrate-II, Chengalpattu

2. The respondent, based on the complaint given by the defacto complainant, had registered the First Information Report against the revision petitioners in Crime No.83 of 2012 on the file of the Inspector of Police, District Crime Branch, Kancheepuram. After the investigation, the respondent filed the charge sheet against the revision petitioners for the offences under Sections 120(b), 420, 423, 465, 468 and 471 IPC before the learned Judicial Magistrate No.II, Chengalpattu. The learned Judicial Magistrate has taken up the case on file in C.C.No.303

of 2014. During the pendency of the case in C.C.No.303 of 2014, the revision petitioners filed a petition in Crl.M.P.No.562 of 2015 to discharge the petitioners from the entire criminal case. The trial Court, after giving opportunity to the parties and perusing the counter filed by the respondent, has dismissed the petition in C.M.P.No.562 of 2015 filed by the revision petitioners. Aggrieved against the order passed by the Judicial Magistrate, the revision petitioners have preferred the present revision petition.

3. The learned counsel appearing for the petitioners would submit that the defacto complainant totally abandoned the subject property. The second petitioner is in possession of the property, he got the patta in his name for the subject land and he is enjoying the property and also executed a General Power of Attorney in favour of the first petitioner on 24.05.2011. In fact, the first petitioner has executed a settlement deed through the General Power of Attorney in favour of one Manoj. Therefore, the petitioners were dealing with the properties. After lodging the complaint, the first petitioner has also cancelled the settlement deed and General Power of Attorney. However, the patta in respect of the subject property is still in favour for the second petitioner. Therefore, they have not committed any offence as alleged by the prosecution. Further, the defacto complainant has filed a suit in O.S.No.100 of 2013 before the Additional Subordinate Court, Chengalpattu. In the mean time, the revision petitioners have filed a petition in Crl.O.P.No.31395 of 2014 before this Court and this Court, while dismissing the petition, has given a liberty to the petitioners to approach the trial Court with a petition for discharge. Even though they had no intention to cheat the defacto complainant and that the dispute is civil in nature and that by giving criminal colour the defacto complainant lodged the complaint against the petitioners, the Magistrate has failed to consider the nature of the allegations and dismissed the petition, which warrants interference.

4. The learned Government Advocate (crl.side) would submit that the allegations levelled against the revision petitioners, prima facie show that there was a commission of offence. Therefore, at the time of trial alone the probative value of the materials against the revision petitioners have to be gone into and the merits of the case will be decided after conducting the trial and not at the stage of framing charges. Therefore, the learned Magistrate has rightly dismissed the discharge petition.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (crl.side) appearing for the respondent and perused the materials available on record.

6. On reading of the First Information Report, charge sheet

and the documents produced by the prosecution under Section 173 of Criminal Procedure Code, there is allegation against the revision petitioners. At the time of framing charges, the trial Court has to see the documents produced by the prosecution under Section 173 Cr.P.C., any prima facie material is available against the petitioners to frame the charges. The defence taken by the accused need not be looked in to at this stage and the probative value of the materials need not be gone into whether they had any intention to cheat the defacto complainant or not that can be decided only after concluding the trial not at the stage of framing charges.

7. Under such circumstances, there is no illegality or perversity in the order passed by the learned Judicial Magistrate in C.M.P.No.562 of 2015. There is no merit in this revision. Hence, this Criminal Revision Case is liable to be dismissed.

8. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

To

1.The Judicial Magistrate-II, Chengalpattu

2. Do Through The Chief Judicial Magistrate
Chengalpattu.

3.The Inspector of Police, District Crime Branch,
Kancheepuram Taluk & District.

4.The Public Prosecutor, High Court, Madras.

+1 CC to Mr.R. Thanjan, Advocate sr 57438.

Cr1.R.C.No.664 of 2015

RSI (CO)
SP(12/11/2018)