

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HON'BLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.No.1314 of 2014

and

M.P.No.1 of 2014

Mohammed Yusuf ... Petitioner/Accused

/Vs/

I.Mohammed Rafeek ... Respondent/Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code to call for the records and quash the proceedings in C.C.No.201 of 2013 on the file of the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District.

For Petitioner : Mr.L.Baskaran

For Respondent : M/s. C.Prabakaran  
M.Vinoth

ORDER

The petitioner is the accused in C.C.No.201 of 2013 on the file of the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District.

2. The respondent/complainant filed a private complaint under Section 200 of Criminal Procedure Code, against the petitioner/accused herein, for the alleged offences punishable under Sections 420 and 467 of IPC.

3. The petitioner/accused in the instant petition, has contended that the respondent/complainant on an earlier occasion lodged a complaint dated 24.06.2009 with the Inspector of Police, Krishnagiri Police Station and the same was closed as mistake of fact and referred a charge sheet was also filed before the Judicial Magistrate No.II, Krishnagiri. He would further contend that the respondent/complainant did not file any protest petition before the Judicial Magistrate No.II, Krishnagiri, before whom referred charge sheet was filed, eventhough the respondent/complainant was served with a notice.

His specific contention is that on the same set of facts the respondent filed the petition under Section 200 of Criminal Procedure Code and that too after a lapse of two years, in C.C.No.201 of 2013 before the Judicial Magistrate No.II, Krishnagiri.

4. Mr.L.Baskaran, learned counsel appearing for the petitioner would contend that the dispute between the petitioner and the respondent is purely civil in nature and the respondent/complainant cannot be permitted to initiate Criminal proceedings against the present petitioner and that there is an inordinate delay in filing a private complaint as the earlier complaint in the same set of facts was preferred two years prior to the filing of the present complaint. Reliance was also placed on the decision of Hon'ble Supreme Court in Thermax Limited and others Vs. K.M.Johny and others reported in (2011) 13 SCC 413, in which, it has been held thus:-

" It is seen from the materials placed that three complaints containing similar allegations had been investigated previously and all were closed as the alleged claim was found to be of civil nature. In those circumstances, it did not lie for respondent 1 complainant to approach the Magistrate with the same subject complaint. Inasmuch as the dispute arose out of a contract and a constituted remedy is only before a Civil Court, the Magistrate ought to have appreciated that respondent 1 was attempting to use the machinery of the Criminal Courts for private gains and for exerting unjust, undue and unwarranted pressure on the appellants in order to fulfill his illegal demands and extract undeserving monetary gains from them. The Courts also failed to appreciate the reply filed by Crime Branch which categorically stated that complaint proffered was investigated and categorized as civil in nature."

5. Per contra, the learned counsel for the respondent would contend that the respondent/complainant has clearly mentioned in his complaint that the document dated 10.07.1997 styled as " consent document" is false and fabricated and that the accused had committed offences under Sections 420 and 467 of IPC.

6. Heard, the submissions made by both the counsel.

7. A perusal of the proceedings issued by the Superintendent of Police, Krishnagiri, showing that the Superintendent of Police had come to a conclusion that all the allegations in the complaint dated 29.01.2017, 02.02.2007, 23.02.2007 and

05.04.2007 are preferred by the defacto complainant are purely civil in nature and directed the respondent/complainant to approach the proper forum to resolve his grievance.

8. That apart, the Deputy Superintendent of Police, Krishnagiri, Sub Division, Krishnagiri District, in his letter to the Superintendent of Police, Krishnagiri District, in C.No.108/SDO(B)/2010 dated 09.07.2010, has clearly stated that the respondent/complainant has the habit of sending false petition s not only against his brother but also against the Government officials. He has also mentioned about the pendency of Civil Suit between the complaint and his brother.

9. A perusal of the entire complaint shows that all the allegations are bald and vague and there are no ingredients to attract the offences under Sections 420 and 467 of IPC. In the facts and circumstances of the present case, the entire proceedings in C.C.No.201 of 2013 on the file of the learned Judicial Magistrate No.II, Krishnagiri, is liable to be quashed.

10. In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is also closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dna

To

The Judicial Magistrate No.II,  
Krishnagiri, Krishnagiri District.

+lcc to C.Prabakaran, Advocate sr.no.43645  
+lcc to Mr.T.Panchatsaram, Advocate sr.no.42953

CrI.O.P.No.1314 of 2014  
and  
M.P.No.1 of 2014

nr 26/07/2018