

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.06.2018

DELIVERED ON: 22.06.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.1933 of 2015

and

Crl.M.P.Nos.1 of 2015 & 5554 of 2018

V.Devadoss

.... Petitioner

Vs.

1. State rep. by
The Inspector of Police,
Porur Police Station.
Coimbatore District.

2. S.Rajagopalan
(impleaded as 2nd respondent as per
order made in M.P.No.3 of 2015 dated
11.03.2015)

.... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records and quash the proceedings as against the petitioner in C.C.No.124 of 2013 pending on the file of the Judicial Magistrate No.I, Coimbatore, Coimbatore District.

For Petitioner : Mr.B.Ullasavelan

For 1st Respondent: Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

For 2nd Respondent : Mr. Ashok Kumar

ORDER

The petitioner is the 3rd accused in C.C.No.124 of 2013 on the file of the Judicial Magistrate No.I, Coimbatore, Coimbatore District. The 2nd respondent S.Rajagopalan is the de-facto complainant and based on his complaint dated 06.06.2011, an FIR in Crime No.777 of 2011 was registered by the Sub Inspector of Police, Perur Police Station, Coimbatore District against three persons namely 1. Chandrasekar, 2.

Suganthi, 3. V.Devadoss for the alleged offences punishable under Section 420, 418, 468 of Indian Penal Code. Subsequently, after conclusion of investigation, final report dated 10.01.2013 was filed against the above mentioned persons for the alleged offences punishable under Sections 420, 418, 468 and 342 of Indian Penal Code.

2. The contention of the petitioner is that he entered into a lease agreement dated 06.12.2006 with the accused No.1 and 2 for a period of 10 years in respect of a vacant land situated at Site No.27 and 28, Perur Chettipalayam Village, Coimbatore, measuring 894 sq.ft., on a monthly rent of Rs.1000/- and also paid a sum of Rs.35,000/- towards rental advance. His further contention is that he was regular in paying monthly rents and the 2nd respondent/de-facto complainant, who purchased a portion of a land from the accused No.1 and 2 insisted the petitioner to vacate the property, which forced the petitioner to file a suit in O.S.No.410 of 2011 before the District Munsif, Coimbatore and to obtain an order of injunction. According to the petitioner, the 2nd respondent/de-facto complainant, aggrieved over the order of injunction passed against him, lodged a false complaint against the petitioner herein in Crime No.777 of 2011 of Perur Police Station, Coimbatore.

3. Mr.B,Ullasavelan, learned counsel appearing for the petitioner would contend that the petitioner had vacated the leasehold property and therefore, the case against him in C.C.No.124 of 2013 can be quashed.

4. Mr.Ashok, learned counsel appearing for the 2nd respondent / de-facto complainant would contend that when the property was purchased by the de-facto complainant, which was lying vacant and that a rental agreement was subsequently created between the accused No.1 and 2 on one part and the accused No.3 on the other part. His specific contention is that the petitioner did not purchase the stamp paper, on which the lease agreement was executed, from the stamp vendor Prathaban, as mentioned in the document. To substantiate his contention, he drew the attention of this court to the extract of Non-Judicial Stamp Register of Prathaban, Stamp Vendor for the month of December 2006, issued by the Assistant Investigation Officer, District Registrar, Coimbatore and contended that no stamp paper for Rs.20 was sold to the present petitioner during December 2006 and that the entire Non Judicial Stamp Papers containing the Serial Numbers 8047 to 8053 were sold to one D.S.Gowthaman by the stamp vendor Prathaban on 06.12.2006. He therefore, would contend that this is a clear case of cheating and that the investigation has been done properly by the first respondent.

5. The learned Government Advocate (Cr1.Side) also contended that all the allegations raised by the petitioner herein can be decided only at the time of trial and that proper investigation has been done by the investigation officer and a final report has also been laid against the present petitioner.

6. It is settled law that the First Information Report and the subsequent investigation cannot be quashed, unless there is no offence spelt out from the same on the basis of the allegations alleged. There is no question of considering the merits of the allegations contained in the final report or testing the veracity of the allegations. Further more, a criminal trial is contemplated only on the definite allegations, prima facie establishing commission of an offence by an accused, which has to be proved by leading an unimpeachable and acceptable evidence, in the course of trial against the accused. In the instant case, as rightly pointed out by the learned counsel appearing for the 2nd respondent/de-facto complainant, there are prima facie materials available on record to proceed against the accused including the present petitioner and merely because the petitioner had handed over the possession of the leasehold property to the accused No.1 and 2, he cannot be discharged of the charges for the alleged offences punishable under Section 418, 420 and 340 of IPC. I therefore, hold that this is not fit case to interfere under Section 482 of Criminal procedure Code, especially when there is a disputed question of fact. Therefore, this petition is liable to be dismissed.

7. Since the case is pending from the year 2013, the Judicial Magistrate No.I, Coimbatore, Coimbatore District is directed to dispose of the case within a period of 6 months from the date of receipt of a copy of this order and send report to this court.

8. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

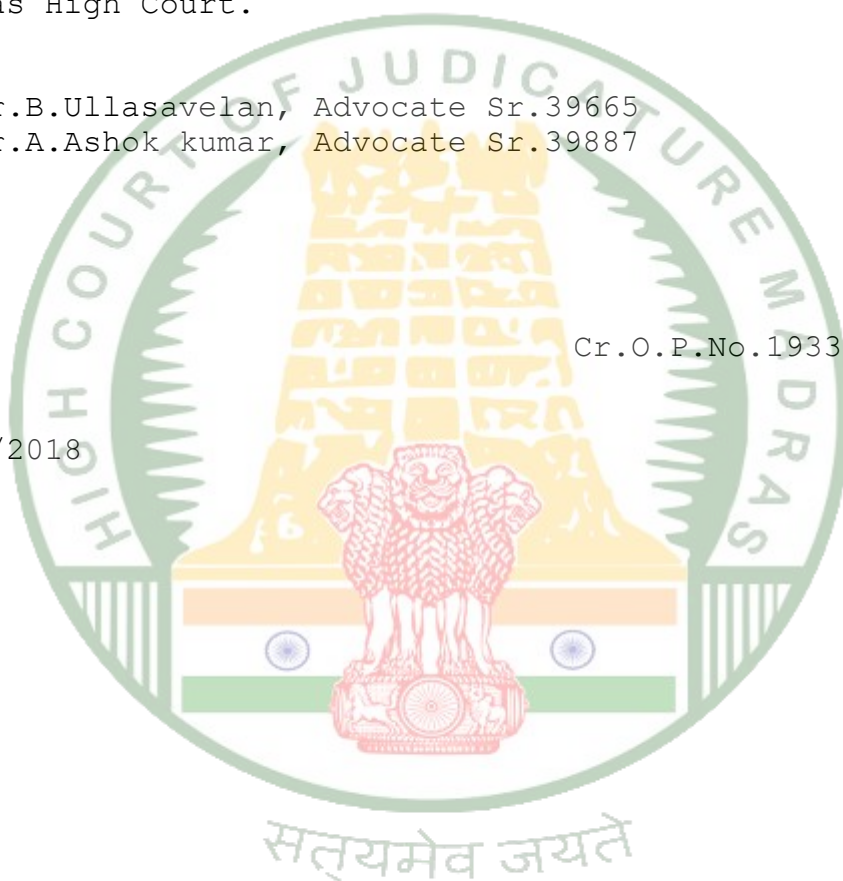
1. The Judicial Magistrate No.I,
Coimbatore,
Coimbatore District.
2. The Public Prosecutor,
Madras High Court.

+1cc to Mr.B.Ullasavelan, Advocate Sr.39665

+1cc to Mr.A.Ashok kumar, Advocate Sr.39887

Cr.O.P.No.1933 of 2015

srg 28/06/2018



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