

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2018

Coram:

The Honourable Mrs. Justice R. HEMALATHA

Cr1.O.P.No.16041 of 2014
and
M.P.Nos.1 & 2 of 2014

1.G.Rajasekar

2.A.P.Kuppusamy Chettiar

3.Tmt.Gangabai Kuppusamy

4.Tmt.Karpagam Rajasekar

5.G.Srinivasa Chettiar

6.Tmt.Hemavathy Srinivasan

7.Tmt.Vijayalakshmi

...Petitioners/Accused 1 to 7

Versus

G.Manoharan

...Respondent

This Criminal Original Petition is filed under Section 482 of Cr.P.C praying to call for the records in C.C.No.4630 of 2010 on the file of the XIII Metropolitan Magistrate Court at Egmore and quash the same in respect of the petitioners are concern.

For Petitioners : Mr.T.Arockiadass

For Respondent : No Appearance

ORDER

There is no representation for the respondent. Heard the learned counsel for the petitioners.

2.1. The petitioners are arrayed as A1 to A7 in C.C.No.4630 of 2010 on the file of the XIII Metropolitan Magistrate Court, Egmore. The respondent/complainant had filed

a private complaint under Section 200 Cr.P.C before the XIII Metropolitan Magistrate, Egmore against the present petitioners as well as the other accused for the alleged offences punishable under Sections 120-B, 406, 417, 420, 465, 468 read with 34 IPC.

2.2. In the complaint in C.C.No.4630 of 2010, the respondent/complainant has averred that his mother Mrs.G.Pavunambal who was the lessee of a property belonging to a Temple, sold the superstructure to A8 in C.C.No.4630 of 2010 on the file of XIII Metropolitan Magistrate Court, Egmore and that A1 G.Rajasekar who is one of the sons of Mrs.G.Pavunambal, started demanding money from the respondent/complainant and also illegally confined his mother from 01.11.2008 onwards. According to him, all the accused conspired with each other and fabricated the documents in favour of A8 and does not have any right over the property in dispute.

3. Mr.T.Arockiadass, the learned counsel appearing for the petitioners would contend that the petitioners and the respondent/complainant are closely related to each other and that the main allegation of the respondent/complainant is that the petitioners have detained the mother of the respondent/complainant and obtained the property from her. He would further contend that the mother of the respondent/complainant is also the mother of A1 herein and that she had not lodged any complaint with the Police that she was illegally detained by any one and forced to part with her property. He also drew the attention of this Court to the orders passed by this Court in Crl.O.P.No.3651 & 1982 of 2011 filed by the A8 in C.C.No.4630 of 2010, which ultimately ended in quashing of the proceedings in C.C.No.4630 of 2010. A perusal of the orders passed by this Court in the above mentioned Criminal Original Petition shows that this Court has come to a conclusion that this is a civil dispute between the parties, which should be adjudicated upon only by a Civil Court. A perusal of the entire complaint shows that there is a civil dispute between both the parties and as rightly pointed out by the learned counsel appearing for the petitioners, Pavunambal did not prefer any complaint that she was illegally detained and was coerced to part with her property.

4. Therefore I hold that the filing of the private complaint under Section 200 Cr.P.C before the XIII Metropolitan Magistrate, Egmore is a clear abuse of process of law, especially when the earlier complaint dated 04.01.2010 preferred by the complainant was closed by the Sub Inspector of Police attached to XVII A Team, C.C.B, Egmore, Chennai. Apart from this, this Court has also come to a conclusion that the dispute between the parties is civil in nature. Therefore, the present Criminal Original Petition is allowed and the proceedings in

C.C.No.4630 of 2010 on the file of the XIII Metropolitan Magistrate is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

mrr

To

- 1.XIII Metropolitan Magistrate,
Egmore, Chennai.
2. Do Thro Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Sub Inspector of Police,
XVII A'Team'
C.C.B Egmore, Chennai.
- 4.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.T.Arcokia Dass, Advocate SR.No.43317

सत्यमेव जयते

Cr1.O.P.No.16041 of 2014

KJI (CO)
GN(25/07/2018)

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