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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved on : 07.03.2018
Delivered on : 13.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Cr1.O.P(MD)No.12757 of 2013

and

M.P.(MD)No.1 of 2013

Kavitha

... Petitioner/Accused No.1

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.

2.The Inspector of Police,
District Crime Branch,
Ramanathapuram.
(Crime No.28 of 2010)

... Respondents 1 & 2/Complainants

3.Parvathiammal

... 3rd Respondent/Defacto Complainant

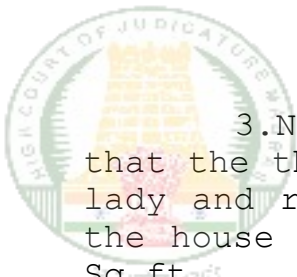
PRAYER:- Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the FIR in Crime No.28 of 2010 on the file of the Inspector of Police, District Crime Branch, Ramanathapuram and quash the same as illegal.

For Petitioner	: Mr.S.Ramasamy for Mr.V.Selva
For R1 and R2	: Mr.A.Robinson Government Advocate (Criminal side)
For R3	: Mr.R.Gandhi

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the FIR in Crime No.28 of 2010 on the file of the Inspector of Police, District Crime Branch, Ramanathapuram and quash the same as illegal.

2.The petitioner herein is Accused No.1 in Crime No.28 of 2010 on the file of the second respondent Police. She filed this application to call for the records pertaining to the said FIR and quash the said FIR as illegal.



3. Now, on going through the facts of the case, it is alleged that the third respondent is the defacto complainant, who is an aged lady and residing in Kamuthakudi, Paramakudi Taluk. She is having the house property in Paramakudi, measuring to an extent of 2287 ½ Sq.ft.

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4. It is alleged by the defacto complainant that the petitioner herein by using her forged signature, created a sale agreement, in which, it is stated that the defacto complainant proposes to sell her house owned by her to the petitioner herein for a sum of Rs.5,00,000/- and she received a sum of Rs.4,50,000/- towards the same. Thereafter, based on the forged sale agreement, the case has been instituted in the Subordinate Court, Paramakudi, which was taken on file as O.S.No.27 of 2010. So, alternatively, the defacto complainant made allegations against this petitioner as she is creating a forged sale agreement for grabbing the property owned by her.

5. Now, the learned counsel appearing for the petitioner contented that the signature found in the alleged sale deed is a genuine one. Further, the allegation levelled by the third respondent can be settled only by way of civil litigation. Without considering the abovesaid aspect, the second respondent police registered a case, which is abuse of law.

6. On the other hand, the learned counsel appearing for the third respondent made a submission that creating a false sale agreement is nothing but forgery, only with dishonest intention. The petitioner herein prepared the alleged sale deed only in order to grab the property of the third respondent and thereby, the dishonest intention of the petitioner constitute the offence under Section 420 IPC and therefore, he prayed for dismissal of this Criminal Original Petition.

7. This Court heard the submissions of the learned Government Advocate (Criminal side) appearing for the respondents 1 and 2 on the abovesaid submissions.

8. Before discussing the merits and demerits of the case, it is relevant to refer the judgment of our Hon'ble Apex Court in C.P.Subhash Vs. Inspector of Police, Chennai and others reported in 2013 (11) Supreme Court Cases 559, wherein at Paragraph Nos.7 and 8, it has been held as follows:-

'7. The legal position regarding the exercise of powers under Section 482 Cr.P.C or under Article 226 of the Constitution of India by the High Court in relation to pending criminal proceedings including FIRs under investigation is fairly well settled by a long line of decisions of this Court. Suffice it to say that in cases where the complaint lodged by the complainant whether before a court or before the jurisdictional police station makes out the commission of an offence, the High Court would not in the



ordinary course invoke its powers to quash such proceedings except in rare and compelling circumstances enumerated in the decision of this Court in State of Haryana V. Bhajan Lal.

8. Reference may also be made to the decision of this Court in Rajesh Bajaj V. State (NCT of Delhi) where this Court observed: (SCC p.262, para 9)

"9. ... If factual foundation for the offence has been laid (down) in the complaint the Court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making out the offence." "

9. So, applying the principles of our Hon'ble Apex Court, the Courts have to quash the FIR only in rarest cases, but in the case on hand, it is necessary to find out whether the signature found in the sale agreement belongs to the third respondent or not. If the signature found in the sale agreement belongs to the third respondent, definitely, the third respondent is not having any case and only civil suit is maintainable. But in this case, as of now, the said process is not completed and therefore, this Court cannot come to the conclusion that the allegation levelled by the third respondent is true or not, for which, investigation is necessary. So, permitting the continuance of investigation alone is the only course for arriving at a just solution with regard to the issue raised by the third respondent herein.

10. For the foregoing reasons stated above, this Court is not inclined to quash the said FIR. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.

2. The Inspector of Police,
District Crime Branch,

<https://hcservices.ecourts.gov.in/hcservices/>
Ramanathapuram.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.R.Gandhi, Advocate SR.No. 55004

+1cc to M/S.V.Selva, Advocate SR.No. 54827

order in
Crl.O.P (MD) No.12757 of 2013
13.03.2018

gns/smn2

JM/JC/SAR 1/22.03.2018/4P/6C