

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.02.2018****CORAM:****THE HONOURABLE MR. JUSTICE R.PONGIAPPAN****Crl.O.P.(MD)No.1323 of 2013
and M.P.(MD)No.1 of 2013**

1.Saiyathuali Fathima
2.Abdul Wahab

... Petitioners / Accused Nos.2 & 3

Vs.

1. State Represented by,
The Inspector of Police,
City Crime Branch,
Tirunelveli District.
(Crime No.1 of 2012)

... Respondent / Complainant

2. Anarkali

3. Gowther Nissa

... Respondents / Defacto Complainant

PRAYER: The Petition filed under Section 482 Cr.P.C. to call for the entire records pertaining to the F.I.R. in Crime No.1 of 2012 on the file of the Inspector of Police, City Crime Branch, Tirunelveli City and quash the same.

For Petitioner : Mr.R.Anand

For R1 : Mr.A.Robinson, G.A.(Crl.side)

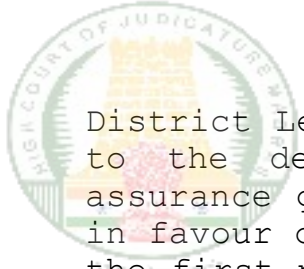
For R2 : Mr.R.Maheshwaran

ORDER

This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.1 of 2012 on the file of the Inspector of Police, City Crime Branch, Tirunelveli City.

2.The learned counsel appearing for the petitioners submitted that the first petitioner / A2 is the daughter of A1. In this case, she received a disputed property by way of a settlement deed executed by her father. Thereafter, the first petitioner sold the said property in favour of the second petitioner, who is arrayed as A3. According to him, the second petitioner has no knowledge with regard to the alleged allegation mentioned in FIR. The relationship between A1 & A2 is not disputed by either side.

3.Before execution of settlement deed by A1, on the basis of a complaint given by the de facto complainant before the District Legal Service Authority, an enquiry was initiated and thereafter, during the time of enquiry, A1 admitted the guilt before the



District Legal Service Authority and assured to retransmit the same to the de facto complainant. Instead of complying with the assurance given by A1 before the said authority, he made settlement in favour of his daughter on 11.06.2008. Thereafter, on 13.06.2011, the first petitioner executed the sale deed in favour of the second petitioner, for which, the de facto complainant lodged the complaint before the respondent Police on 02.01.2012. Due to an order of interim stay granted by this Court, the Investigating Agency is not able to complete the investigation.

4. In view of the above, in order to decide the issue this Court is having the duty to identify that whether the petitioners have conspired along with A1, as in order to secure the disputed property by way of fraudulent transfer or not. The said aspect has to be decided only by way of conducting investigation. Since the transaction between the petitioners 1 and 2 is based on the factual aspects and the same has to be find out only by way of interrogating the petitioners. Therefore, quashing FIR is not a solution to settle the dispute between the de facto complainant and the accused persons.

5. As of now, the allegations levelled against the petitioners and the registration of the case do not show any illegality and the same has not reflected the abuse of process of law. Therefore, this Court came to the conclusion that quashing the FIR will seriously prejudice the case of the de facto complainant. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
City Crime Branch,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

gns

MV:GT:SAR3:12/03/2018/2P/3C

**Cr1.O.P. (MD) No.1323 of 2013
and M.P. (MD) No.1 of 2013**