



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2018

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THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Cr1.O.P.(MD)No.20097 of 2013
and
M.P(MD).Nos.1 and 2 of 2013

1.Thanalingam
2.S.Thirugnanam

... Petitioners

Vs.

M.Murugan

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the C.C.No.692/2012 based upon the private complaint lodged by the respondent on the file of the learned Judicial Magistrate No.II, Madurai and quash the same with regard to the petitioners.

For Petitioners	:	Mr.D.Saravanan
For Respondent	:	No Appearance

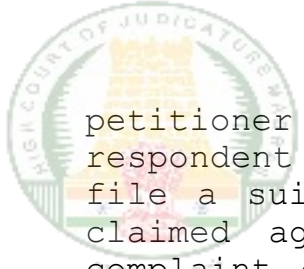
ORDER

The petitioner has come forward with this petition seeking to quash the proceedings in C.C.No.692/2012 on the file of the learned Judicial Magistrate No.II, Madurai.

2.The respondent in this petition namely one Murugan claimed that he is the agreement holder in respect of the property in question. The said property stood in the name of Gnanam, Balaji Ravi and Meena Srivatsav. His grievance is that even during the subsistence of the sale agreement between him and the landowners, the first petitioner herein had taken a power of attorney from them and based on the power of attorney, sold the property in favour of the second petitioner Thirugnanam. On the strength of this allegations, he has lodged a private complaint. It was taken on file as C.C.No.692 of 2012 by the learned Judicial Magistrate No.II, Madurai for offences under Sections 406 and 420 of IPC.

3.Though the respondent was served with notice and his name appears in the cause list, he has not chosen to enter appearance either in person or through counsel.

4.This Court is unable to appreciate the very maintainability of the complaint in question. The ingredients of Sections 406 and 420 are wholly absent. The only allegation against the second



petitioner is that he has purchased the property in question. The respondent was only an agreement holder and his only remedy is to file a suit for specific performance. Even assuming that he has claimed against the landowners, he ought to have confined the complaint only against them. Even if all the complaint averments are taken as true, no case is made out against the present petitioners and it amounts to an abuse of legal process. Therefore, the impugned prosecution is quashed insofar as the petitioners are concerned.

5. Accordingly, this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate No. II, Madurai.

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

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