

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.32719 of 2013 and
M.P.No.1 of 2013

1. K.M.Velusamy
2. V.Arunprasad : Petitioners/Accused 1 & 2
3.

Vs.

1. State represented by
The Inspector of Police,
Kadathur Police Station,
Erode District.
Crime No.439 of 2013 : 1st Respondent/Complainant

2. M. Nagarajan : 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482
Cr.P.C. to call for records relating to the criminal case in
Crime No.439 of 2013 on the file of 1st respondent police, quash
the same by allowing this criminal original petition.

For Petitioners : Mr.M.Roshan Atia

For Respondents : Mr.R.Surya Prakash
Govt.Advocate(CrI.Side) for R1
Mr.I.C.Vasudevan for R2

सत्यमेव जयते

ORDER

The second respondent filed a complaint against petitioners and the first respondent police registered a case in Crime No.439 of 2013 for the offence punishable under Sections 120(b), 420, 468 & 471 of IPC. Pending investigation, the petitioners have filed this present petition seeking to quash the above case.

2 The learned counsel appearing for the petitioners would submit that the first petitioner and the second respondent are brothers and they inherited properties from their father after his death. There was an oral agreement, through which, the

properties were divided into two equal shares. Accordingly, the first petitioner sold some properties and even the second respondent/defacto complainant also sold some properties to others. The second respondent filed a suit for partition, which was allowed to be dismissed for default. Thereafter the present complaint was filed against the petitioners with an ulterior motive to disturb employment of the first petitioner as a Teacher. The second respondent also sent a complaint, which was forwarded to Revenue Divisional Officer, Gobichettipalayam, and the same was closed as the dispute was between the family members and direction was issued to approach the competent civil forum. There is no fraud or forgery played by the petitioners as alleged by the second respondent. To support his contentions, the learned counsel placed reliance on the decision rendered by the Hon'ble High Court reported in (2009) 8 Supreme Court Cases 751 (Mohammed Ibrahim and others vs. State of Bihand and another) Therefore, the present complaint against the petitioners is only harass the petitioners and the same is liable to be quashed.

3 The learned Government Advocate (Crl.Side) appearing for the first respondent police would submit that based on the complaint given by the second respondent, the case was registered, but, since this Court granted stay in this matter, the first respondent police could not proceed further investigation.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 Admittedly, the first petitioner and the second respondent are brothers and according to the second respondent/defacto complainant the subject properties has not been partitioned and in order to cheat the defacto complainant, the petitioners have sold properties through forged documents. This Court is of the view that there is no quarrel with the legal proposition referred to by the learned counsel for the petitioners, but, whether the oral partition as stated by the petitioners has been effected with regard to the subject properties or whether the petitioners have cheated the second respondent/defacto complainant will come into light only after investigation. Further, the second respondent/defacto complainant has clearly made allegations against the petitioners and whether the allegations are true or not can be decided only after investigation. Under these circumstances, this Court is not inclined to invoke power under Section 482 of Cr.P.C.

6 In the result, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

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Sub Assistant Registrar

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To

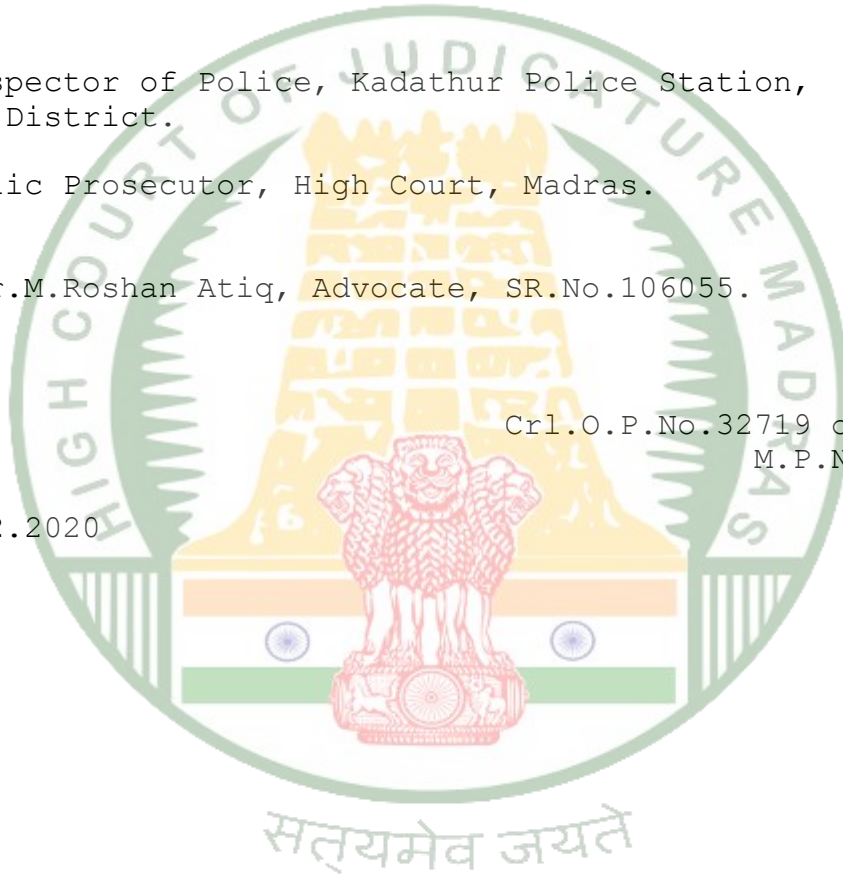
1. The Inspector of Police, Kadathur Police Station,
Erode District.

2. The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.Roshan Atiq, Advocate, SR.No.106055.

Crl.O.P.No.32719 of 2013 and
M.P.No.1 of 2013

NR(CO)
CSR: 25.02.2020



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