

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.02.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.16770 of 2017 and
Crl.M.P.No.10297 of 2017

Syed Abudahir

... Petitioner

Vs.

1. The State rep. by
Inspector of Police,
Vadalur Police Station,
Cuddalore District

2.Mallika

... Respondents

Note: 2nd Respondent impleaded as per the order of this Court dated 27.11.2018 made in Crl.M.P.No.15899 of 2018 in Crl.O.P.No.16770 of 2017 by NAVJ.

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the F.I.R.No.243 of 2017 on the file of the respondent / Police Station and quash the same.

For Petitioner : Mr.M.C.Swamy

For 1st Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For 2nd Respondent : No appearance

ORDER

This petition has been filed to to call for the records of the F.I.R.No.243 of 2017 on the file of the respondent / Police Station and quash the same.

2. The case of the prosecution is that the defacto complainant's husband during his life time was doing iron commerce. During that time, he used to borrow money from the petitioner for doing business and thereafter they shared the profit among themselves. At one point of time his friend one, Mr.Marimuthu asked him to arrange loan, and for the same he approached the petitioner and arranged loan for Rs.16,00,000/-

wherein her husband stood as surety. Thereafter, when the person defaulted repayment, the petitioner without informing to the defacto complainant, threatened him and got registered a sale deed in respect of his property. Now the petitioner entered the house of the defacto complainant and informed that the he has purchased the property and the defacto complainant should vacate the property. Hence, the complaint was lodged by the defacto complainant.

3. The learned counsel for the petitioner would submit that the husband of the defacto complainant himself signed in the paper agreeing to give the property for the default in payment by the said Marimuthu. He further submits that since the petitioner and her husband were close friends during his life time, the petitioner did not force her husband to vacate the property. But after the death of her husband, based on the documents signed by the defacto complainant's husband he went to the house of the defacto complainant and asked to vacate the premises, but the false complaint has been registered against the petitioner as if the petitioner falsely created the document and after the death of her husband he is trying to grab the property of the defacto complainant. Hence, the petitioner has filed this petition.

4. The learned Additional Public Prosecutor would submit that the petitioner taking advantage of the death of the defacto complainant's husband the petitioner is trying to evict the defacto complainant, who is in possession of the disputed property. He further submits the petitioner fraudulently obtained signature from the defacto complainant's husband in order to grab the property. Hence, he sought for dismissal of the petition.

5. Though notice was issued to the 2nd respondent, no one entered appearance on behalf of him.

6. Heard, the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

7. It is seen that the sale deed was executed in the year 2014, that too by cash transaction under registered document. Till the death of her husband i.e. in the year 2016, the defacto complainant did not lodge any complaint. Immediately after the death of her husband, she has lodged complaint that too in the year 2018. Admittedly, the defacto complainant is in possession of the property, and the suit for eviction was filed by the petitioner, wherein the defacto complainant has also obtained stay, and the suit is still pending.

8. Considering the facts and circumstances of the case, this Court is inclined to quash the FIR as such this Criminal Original Petition is allowed consequently the FIR in Crime

No.243 of 2017 on the file of the respondent Police is quashed.
The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

lok

To

1.Inspector of Police,
Vadalur Police Station,
Cuddalore District

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.C.Swamy, Advocate. S.R.No.10584

CrI.O.P.No.16770 of 2017 and
CrI.M.P.No.10297 of 2017

SSV(CO)

rrs 19/03/2019



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