



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.3923 of 2014

and

M.P. (MD) No.1 of 2014

V.P.Rathinasami

... Petitioner / Accused No.1

vs.

Vellairaj

... Respondent / Complainant

PRAYER: Petition is filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.340 of 2013, pending on the file of the learned Judicial Magistrate No.II, Dindigul and to quash the said proceedings as against the Petitioner.

[amended vide order dated 22.03.2019
in Crl.M.P. (MD) No.2640 of 2019]

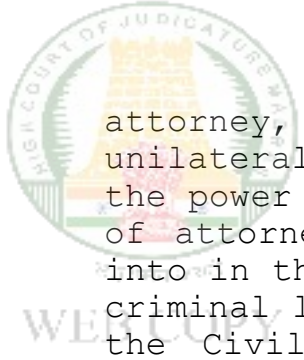
For Petitioner	:	Mr.R.Vijayakumar
For Respondent	:	Mr.D.Venkatesh

O R D E R

For the sake of convenience, the parties will be referred to by their name.

2. It is the case of Vellairaj, that sometime in the year 2008, he borrowed a small amount from Rathinasami. But, Rathinasami got powers of attorney from him and his family members in favour of A2 & A4 and thereafter, A2 & A4 entered into sale agreements in respect of the properties with A3 & A4. It is also alleged that Rathinasami had obtained some blank cheques from Vellairaj, with which he has engineered prosecutions under Section 138 of the Negotiable Instruments Act (hereinafter, referred to as "the N.I.Act"). It is further alleged that the powers of attorney were cancelled by the executants, despite which, the accused dealt with the properties. Therefore, Vellairaj has initiated a prosecution in C.C.No.340 of 2013, before the learned Judicial Magistrate No.II, Dindigul, against Rathinasami and nine others, including Natarajan, retired Sub-Registrar, who is said to have registered the powers of attorney in the year 2008. It may be necessary to state here that the complaint has been lodged only in the year 2013.

<https://hcservices.ecourts.gov.in/hcservices> the opinion of this Court, the averments in the complaint clearly do not disclose the commission of any cognizable offence at all. As regards the cancellation of the powers of



attorney, admittedly, Vellairaj and his family members have unilaterally cancelled the powers of attorney behind the back of the power holders. If it is the case of Vellairaj, that the powers of attorney and the consequent sale agreements that were entered into in the year 2008 are sham and nominal, the remedy is not under criminal law, that too in the year 2013. The remedy is to approach the Civil Court challenging the sale agreements. That apart, Vellairaj is admittedly facing prosecutions for the offence under Section 138 of the N.I.Act and this private complaint has been filed only to torpedo the prosecution initiated against him.

4. In the result, this Criminal Original Petition is allowed and the entire prosecution in C.C.No.340 of 2013, on the file of the learned Judicial Magistrate No.II, Dindigul, against all the accused, including those who are not before this Court, is hereby quashed. It is made clear that whatever is observed hereinabove is only for deciding this quash petition and it shall not affect the defences available to Vellairaj in the cases pending against him and his family members. Similarly, whatever is observed hereinabove shall also not prejudice his civil rights. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar (CS)

krk

To:
The Judicial Magistrate No.II,
Dindigul.

+1CC TO MR.R.VIJAYA KUMAR, Advocate Sr. No.56025

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22.03.2019

TR (03.04.2019) 2P 3C