



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.599 of 2018

Yusuf Abhudhahir, ...Petitioner /Accused No.1

-Vs-

K.Muthumari ... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the complaint filed u/s.200 Cr.P.C. in C.C.No.599 of 2017 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal as against this petitioner.

For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.M.Gururaj

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in in C.C.No.599 of 2017 on the file of the learned Judicial Magistrate No.VI, Madurai.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the respondent lodged a complaint as against the petitioner and the same was taken on file as C.C.No.599 of 2017 on the file of the learned Judicial Magistrate No.VI, Madurai. Hence he prayed to quash the same.

4.The learned counsel for the respondent would submit that there are specific allegations as against the petitioner. He would further submit that the petitioner is the first accused and the second respondent is the second accused in this case. The complainant/ Muthumari initially gave a complaint before the second accused/ Inspector of Police against the petitioner herein and the second accused/Inspector of Police was closed the complaint as "Mistake of fact" and thereafter, the complaint filed as against the first accused as well as the Investigation Officer, who closed the



complaint as mistake of fact, on the complaint lodged by the defacto complainant.

5.The allegation in the complaint is that the defacto complainant is a divorce. The petitioner herein/first accused on 13.02.2013, has broke open the defacto complainant's house and entered into premises on the strength of lease deed, it is an unregistered deed. Though the civil suit is pending in O.S.No.49 of 2016 on the file of the learned District Munsif, Madurai, for permanent injunction, there are specific averments and allegations as against the accused and to attract the offence under Sections 468, 471 and 420 of IPC. Initially the F.I.R was registered in Crime No.443 of 2015 and after enquiry conducted by the second accused/Inspector of Police closed the complaint as "mistake of fact" and thereafter, the present complaint has been lodged by the defacto complainant.

6.That apart, there are specific averments to attract the offences as against the petitioner herein. Further it is also seen that there are materials to connect the petitioner to the offences. More over all the points raised by the petitioner have to be considered only during the trial. The petitioner is at liberty to raise all the points before the Court below during the trial.

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.599 of 2017. However, considering the case is of the year 2017, the learned Judicial Magistrate No.VI, Madurai, is directed to complete the entire trial proceedings in C.C.No.599 of 2017 within a period of three months from the date of receipt of copy of this Order.

8.At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

9.Accepting the said submission, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

10. With the above observations, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar ()

// True Copy //



To

The Judicial Magistrate No.VI,
Madurai.

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+1 CC to M/s.S.M.A. JINNAH, Advocate (SR-85146[F] dated
04/09/2019)

CrI.O.P. (MD) No.599 of 2018
03.09.2019

Ls

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