



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.11656 of 2015 and

M.P.(MD)No.1 and 2 of 2015

1. Jeyaraman
2. Kanagaraj
3. Thangavel

... Petitioners/Accused Nos.3
to 5

Vs.

1. State rep. By,
The Inspector of Police,
Palani Town Police Station,
Palani, Dindigul District.
(Crime No- 218/10)

... 1st Respondent/Complainant

2. Kalimuthu

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.27 of 2015 on the file of the learned Judicial Magistrate, Palani, Dindigul and quash the proceedings as against the petitioners.

For Petitioners : Mr.A.Thiruvadi Kumar

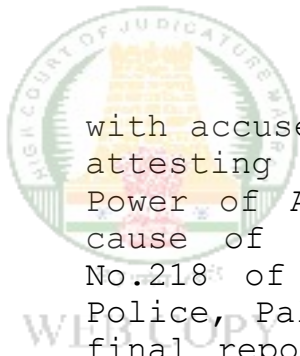
For R-1 : Mr.A.Robinson,
Government Advocate(Crl. Side).

For R-2 : Mr.S.Kishore Kumar,
for Mr.K.Mu.Muthu.

O R D E R

This criminal original petition has been filed by accused Nos.3 to 5 for quashing the proceedings in C.C.No.27 of 2015 on the file of the Judicial Magistrate, Palani, Dindigul District.

2. The second respondent, namely, Kalimuthu is the defacto complainant in this case. He had purchased the property in question vide sale deed dated 23.10.2002 executed by the first accused Kodeeswaran and his father Subramanian. The grievance of the defacto complainant is that after conveying title in respect of the property in his favour, accused No.1 chose to execute a Power of Attorney to convey accused No.2 on 07.01.2009. Based on the said Power of Attorney, accused No.2 had entered into a sale agreement



with accused No.3 on 14.08.2009. Accused Nos.4 and 5 are figuring as attesting witnesses in the sale agreement. The execution of the Power of Attorney and the sale agreement dated 14.08.2009 is the cause of action for engineering the impugned prosecution. Crime No.218 of 2010 was registered on the file of the Inspector of Police, Palani Town police station. Investigation was taken up and final report came to be filed against all the five accused before the Judicial Magistrate, Palani, for the offences under Sections 465, 468, 471, 420 IPC r/w. 109 IPC. Cognizance of the aforesaid offences was taken in C.C.No.27 of 2015. To quash the same, this criminal original petition has been filed by accused Nos.3 to 5.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the second respondent.

4. The learned counsel appearing for the defacto complainant states that there has been no instruction forthcoming from the defacto complainant.

5. The petitioners' counsel would submit that subsequent to the registration of the First Information Report, they have cancelled the sale agreement. A copy of the same is enclosed at page No.22. The petitioners' counsel on instructions clearly states that accused Nos.3 to 5 have no claim whatsoever on the property in question.

6. It is seen that the first petitioner herein was only a proposed purchaser. The second and third petitioners are only the attesting witnesses. Therefore, by no stretch of imagination, none of the offences can be said to be made out against them. The continuance of the impugned prosecution would only amount to abuse of legal process.

7. In this view of the matter, the impugned prosecution stands quashed as far as the petitioners are concerned. The criminal original petition stands allowed. It is made clear that the impugned prosecution will continue against the remaining two accused. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To:

1. The Judicial Magistrate,
Palani, Dindigul District.
2. The Inspector of Police,
Palani Town Police Station, Palani, Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AP (19.03.2020) 3P 4C