



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2019

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

CRL.O.P. (MD) No.12096 of 2015

and

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

K.Santhanam

... Petitioner/ Sole Accused

Vs.

1. State represented by,
The Inspector of Police,
Keelavalavu Police Station,
Madurai District.
(Crime No.114 of 2015)

... Respondent/Complainant

2. Murugeswari

... Respondent No.2/
Defacto Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records and quash Crime No.114 of 2015 on the file of the respondent police.

For Petitioner : Mr.R.G.Shankar Ganesh

For R-1 : Mr.A.Robinson,

Government Advocate(Criminal Side)

For R-2 : No appearance.

O R D E R

The petitioner is the sole accused in Crime No.114 of 2015 registered on the file of the Keelavalavu police station, Madurai District, for the offences under Section 420 of I.P.C.

2. The second respondent Murugeswari is the defacto complainant. Even though notice has been served on her, she has not chosen to enter appearance.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal Side) appearing for the first respondent.



4. From the materials on record, it is evident that the second respondent had sold her share in the property vide a registered sale deed dated 13.10.2000. The petitioner had likewise obtained sale deeds from the other co-sharers on the subsequent dates. Thereafter, the petitioner had sold the property purchased by him to P.R.P. Granites on 26.09.2001.

5. This court can take judicial notice of the fact that serious allegations regarding the commission of illegality by the various quarry owners in and around Madurai were made around 2000 onwards. The Madras High Court appointed a committee under the Chairman headed by Shri.U.Sagayam, IAS, Legal Commissioner to go into such issue. The said committee had issued summons to the petitioner calling upon him on 11.03.2015. The petitioner is said to have appeared before the committee and placed all the relevant records.

6. The petitioner's counsel would point out that thereafter this complaint was obtained from the second respondent. The substance of the complaint is that even though the petitioner had agreed to pay a sum of Rs.6,65,000/-, what was paid is only a sum of Rs.20,000/-. The balance amount was not paid by the petitioner. This is the allegation made by the second respondent against the petitioner herein.

7. I fail to understand as to how the first respondent could have registered the First Information Report based on such allegation. It is evident from the record that the second respondent had effected sale of her share in the property in question by a sale deed way back in the year 2000. The complaint in question was given after a lapse of almost 15 years. The Hon'ble Supreme Court in the decision reported in (2012) 4 SCC 1 (Lalita Kumari Vs. Government of Uttar Pradesh and others) has laid down that preliminary enquiry must be conducted, if the cause of action is three months old or if it is commercial in nature, preliminary enquiry must be conducted. If such an enquiry had been held, the first respondent would have come to the conclusion that the second respondent's grievance is without any foundation. In any event for the non-payment of the balance amount, complaint cannot be given after a gap of 15 years. On the face of it, the allegations set out in the impugned complaint are improbable.

8. The petitioner's counsel would remark in passing that the complaint itself was engineered. Since he has not arrayed the concerned persons, his allegation of *mala fide* is not gone into. The very registration of the impugned First Information Report is an abuse of legal process.



9. The impugned FIR in this criminal original petition stand quashed. The criminal original petition stands allowed, accordingly. Consequently, connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TO

1. THE INSPECTOR OF POLICE,
KEELAVALAVU POLICE STATION,
MADURAI DISTRICT.

2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.R.G.SHANKAR GANESH, Advocate (SR-94757[F] dated 25/10/2019)

Order made in
CRL.O.P. (MD)No.12096 of 2015 and
M.P. (MD)No.1 of 2015
25.10.2019

SRS/ 18.03.2020/ 3P/4C