



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.12691 of 2015
and
M.P. (MD)Nos.1 and 2 of 2015

1.Muthusamy
2.Amirthavalli

... Petitioners / Accused 1 & 2

Vs

1.The Inspector of Police, Trichy.

2.R.Suila Devi

... Respondent / Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to quash the charge sheet laid in C.C.No.314 of 2014, on the file of the Judicial Magistrate No.4, Tiruchirappalli., dated 15.12.2014.

For Petitioners: Mr.J.Maria Roseline

For R1 : Mr.A.Robinson
Government Advocate (Crl.side)

For R2 : Mr.R.Ragavendran

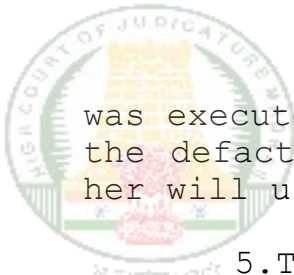
ORDER

The petitioners are facing trial in C.C.No.314 of 2014 on the file of the Judicial Magistrate No.4, Tiruchirappalli, for the offences under Sections 420, 465, 468 and 471 of IPC.

2.The second respondent herein is the defacto complainant.

3.The case of the defacto complainant is that the second petitioner herein through her husband and power agent namely the first petitioner herein executed a sale deed dated 08.09.2010 in favour of the defacto complainant. The sale deed mentions that the petitioners received a sale consideration of Rs.6,03,900/-. The parties had earlier entered into a sale agreement on 28.04.2010. During the intervening period, the brother of the first petitioner filed a partition suit on 18.08.2010.

4.The case of the defacto complainant is that suppressing the institution of the partition suit in O.S.No.132 of 2010 on the file of the District Judge, Trichirappalli, sale deed dated 08.09.2010



was executed. As a result of the institution of the partition suit, the defacto complainant is not sure as to whether the land sold to her will ultimately be allotted to the share of Muthusamy or not.

5.The allegation of the defacto complainant is that suppression is willful and deliberate on the part of the petitioners herein. A complaint was given before the Inspector of Police, CCB, Trichy and Crime No.208 of 2014 was registered. Investigation was taken up and final report was filed before the Judicial Magistrate No.4, Trichy. Cognizance of the offences under Sections 420, 465, 468 and 417 was taken and the case was taken on file in C.C.No.314 of 2014. To quash the same, this criminal original petition has been filed.

6.Heard the learned counsel on either side.

7.I am satisfied that no case of forgery is made out. The case of forgery can be said to be made out only if the accused are shown to have executed a false document. In this case, the first petitioner herein affixed only his signature and not that of anybody else. Therefore, obviously, the case of forgery is not made out. Therefore, I have no hesitation to quash the impugned proceedings insofar as the cognizance of the offences under Sections 465, 468 and 471 of IPC. But then, I am satisfied that there are prima facie materials for framing the charge of cheating against the petitioners herein.

8.The learned counsel appearing for the defacto complainant has convincingly demonstrated that before the execution of the sale deed in favour of the defacto complainant, the partition suit, in which, the petitioners are figuring as defendants was instituted.

9.Therefore, the petitioners will have to necessarily establish their innocence before the trial Court in a regular trial that they did not have any dishonest intention. Since this is a factual aspect, it can be adjudicated only in a regular trial. The inherent powers of this Court cannot be invoked for quashing the same. Therefore, the impugned prosecution against the petitioners will continue insofar as the charge of the cheating is concerned. It stands quashed insofar as the allegations of forgery are concerned. Hence, this criminal original petition is partly allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Inspector of Police, Trichy.

2.The Judicial Magistrate No.4, Tiruchirappalli.

+1 CC to M/s.J. MARIA ROSELINE, Advocate (SR-102020[F] 28/11/2019)

+1 CC to M/s.R. RAGAVANDRAN, Advocate (SR-101915[F] 27/11/2019)

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