



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

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

Crl.O.P(MD).No.13755 of 2015

and

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

WEB COPY

A.M.Abirami ... Petitioner/Accused No.4

Vs

1.The State Rep. by
The Inspector of Police,
Austinpatti Police Station,
Madurai District.
(Crime No.219 of 2015) ...Respondent/Complainant

2.N.Noorsath ... Respondent/Defacto Complainant

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to Crime No.219 of 2015, pending on the file of the first respondent police and to quash the same.

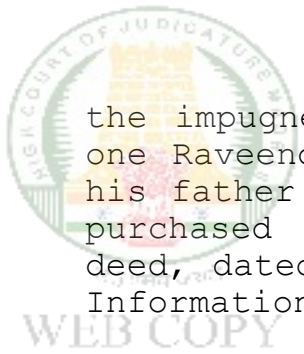
For Petitioner	: Mr.Mr.K.Govindarajan for Mr.S.Ravi
For R1	: Mr.A.Robinson Government Advocate (Crl. side)
For R2	: No Appearance

ORDER

The petitioner figured as fourth accused in Crime No.219 of 2015, on the file of the Austinpatti Police Station, for the offences punishable under Sections 468, 471 and 420 of IPC. The de-facto complainant is the second respondent herein. To quash the First Information Report as far as he is concerned, this Criminal Original Petition has been filed.

2.The second respondent has been served and he originally entered appearance through his counsel. But when the case was taken up for hearing, the learned counsel revoked his appearance. The name of the de-facto complainant is printed in the cause list.

3.The case of the de-facto complainant is that his father Norlakkhan had purchased the property in question, vide sale deed, dated 13.02.1975. Later, he came to know that the property in question had been encroached upon by the persons named as accused in



the impugned First Information Report. He also came to know that one Raveendran had sold parts of the 35 cents of land belonging to his father in favour of various persons. The petitioner herein had purchased two plots of land from the said Raveendran, vide sale deed, dated 03.10.2008. Hence, he had come forward with this First Information Report.

4.As rightly contended by the learned counsel appearing for the petitioner, none of the offences levelled against the petitioner herein can be said to be made out. The offences lodged against the petitioner can be categorized into two; (i) forgery and (ii) cheating. The offence of forgery can be said to be made out only if the signature of the second respondent had been affixed by somebody else. In this case, Raveendran had affixed his own signature in the sale deed, dated 03.10.2008, executed in favour of the petitioner herein.

5.Likewise, the offence of cheating can be said to be made out, only if the petitioner had held out some assurance or representation to the de-facto complainant, based on which, the de-facto complainant had altered his position. No such thing has taken place. In fact, there was no transaction whatsoever between the petitioner and the de-facto complainant. Therefore, the offence of cheating cannot also be said to be made out.

6.The Hon'ble Supreme Court in the decision reported in (2009) 3 SCC(Cr1) 929 (*Mohammed Ibrahim & Others Vs. State of Bihar and another*), held that the condition precedent in forgery is making a false document. The expression of false document has been defined in Section 464 of IPC. The Hon'ble Supreme Court has held as follows:-

"...In short a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his senses.."

7.In the case on hand, the sale deed executed in favour of the petitioner will not fall under any of the categories mentioned above. In any event, the petitioner is only a purchaser. The petitioner's counsel would point out that the petitioner is a *bona fide* purchaser.

8.It is also seen that the de-facto complainant herein had already filed O.S.No.664 of 2010, on the file of the learned District Munsif Court, Thirumangalam, in this regard. The suit is said to be still pending. According to the petitioner's counsel, an advocate Commissioner was appointed in the said case and based on



his report, the case on hand has been registered.

9.I am satisfied that there is a substantial and real dispute between the parties with regard to identification of the property. I went through the complaint as well as the plaint filed by the second respondent herein. The de-facto complainant admits the validity of the 1966 documents executed in favour of the principals of Raveendran. His contention is that the said document does not cover the property on hand. If that be so, that is a matter for adjudication by the Civil Court. In this view of the matter, I hold that no criminality can be attached to the act of purchase made by the petitioner herein. Implicating the petitioner herein in the impugned First Information Report is an abuse of process of law. The impugned First Information Report stands quashed as far as the petitioner is concerned. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

sj i
To

1.The Inspector of Police,
Austinpatti Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.THILAKKUMAR, Advocate (SR-101712[F] dated 27/11/2019)

Crl.O.P(MD). No.13755 of 2015
25.11.2019

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