



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.14851 of 2015

and

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

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K.Mokkaiyan

... Petitioner

Vs

1.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.
(Crime No.72 of 2013)

2.Annakkili

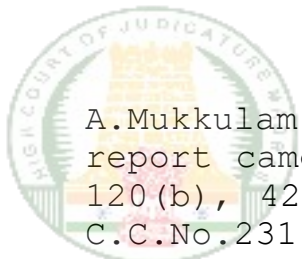
... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the C.C.No.231 of 2015, on the file of the learned Judicial Magistrate, Aruppukottai.

For Petitioner	: Mrs.A.S.Rajeswari
For Respondents	: Mr.A.Robinson
	Govt. Advocate (Crl. Side) for R1
	: Mr.N.Tamilmani for R2

O R D E R

The petitioner is the sole accused in C.C.No.231 of 2015, on the file of the learned Judicial Magistrate, Aruppukottai. The second respondent Annakkili is the defacto complainant. She is the daughter of the petitioner herein. The petitioner is having two wives. The second respondent is the daughter born through the second wife. The case of the defacto complainant is that the petitioner held out certain false representations and made her to sign a relinquishment deed. The learned counsel for the second respondent would point out that the second respondent gave birth to a child on 01.02.2009 and that the document in question was executed on 09.02.2009. Her specific case is that the petitioner made her to believe that her signature is necessary for getting marriage assistance from the Government Department. According to her, she was not aware of the true nature of the document which she was executing. Based on the complaint of the defacto complainant, Crime No.72 of 2013 was registered on the file of



A.Mukkulam Police Station. Investigation was conducted and final report came to be filed. Cognizance of the offences under Sections 120(b), 420, 468, 471, 294(b) and 506(ii) of I.P.C., was taken in C.C.No.231 of 2015. To quash the same, this criminal original petition has been filed.

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2.The learned counsel appearing for the petitioner pointed out that the cause of action was taken as early as on 09.02.2009 but the FIR was registered only in the year 2013. She also drew my attention to the fact that the defacto complainant subsequently filed a civil suit for declaring the said document as null and void. The said civil suit was dismissed on 29.04.2017. She also took me through the statement of the registering authority recorded under Section 161 of Cr.P.C. She would submit that the second respondent after receiving a sum of Rs.81,000/- representing her share in the property consciously and voluntarily executed the document in question. She would submit that continuance of the impugned prosecution against the own father of defacto complainant would only amount to an abuse of legal process.

3.I am not persuaded by the submission of the petitioner's counsel. This Court therefore cannot enter into an appreciation of the factual matters. The petitioner will have to necessarily to establish his defence only before the Trial Court in a regular trial. In this view of the matter, leaving open all the contentions of the petitioner, this criminal original petition stands dismissed.

4.Considering the age of the petitioner, his personal appearance before the Court below is dispensed with. He has to appear only on those occasions when his appearance is absolutely necessary and imperative. On all other occasions, the petitioner can be represented by counsel. The learned counsel on either side request that the case itself should be disposed as early as possible. Taking note of the said request, this Court direct the learned Trial Magistrate to dispose of C.C.No.231 of 2015 on merits and in accordance with law within a period of four months from the date receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

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Sub Assistant Registrar(CS)



To:

1.The Judicial Magistrate, Aruppukottai.

2.The Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.

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

+1 CC to M/s.N.TAMILMANI, Advocate (SR-96281[F] dated
06/11/2019)

Crl.O.P. (MD)No.14851 of 2015
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KG (CO)
TR(27.05.2020) 3P 5C