



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.3519 of 2015

and

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

WEB COPY

1.G.Krishnamoorthy

2.Mrs.Bhoopathi

... Petitioners/Accused 1&3

Vs

T.Kasirajan

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.121 of 2013, on the file of the Judicial Magistrate, Nilakkottai, and to quash the same.

For Petitioners : Mr.Babu Rajendran

For Respondent : Mr.R.Rajaraman

O R D E R

The petitioners are facing trial in C.C.No.121 of 2013, on the file of the learned Judicial Magistrate, Nilakkottai, for the offences under Sections 294(b), 420, 447 and 506(ii) of I.P.C. It is a private complaint instituted by the respondent herein. To quash the same, this criminal original petition has been filed.

2.Heard the learned counsel on either side.

3.The respondent herein is a tenant in respect of the premises bearing Door No.13-1-59A. The property originally belonged to one Rajamani. The respondent herein was a tenant even under the said Rajamani. The property was conveyed to the first petitioner and his brothers namely., Chandra Mohan and Manickam. Balamani is their mother. The case of the complainant is that he had paid a sum of Rs.4,00,000/- as advance amount and when he asked for receipt, the petitioners herein refused. The second petitioner is the wife of the other brother of Krishnamoorthy.

4.By no stretch of imagination, the acts attributed to the petitioners will attract the offence under Section 420 of I.P.C. The said provision can be invoked only if it can be shown that based on the promise or assurance or representation held out by the accused, the complainant changed his position. It must also be brought that the accused had dishonest intention from the very inception. Such is clearly not the case here. Therefore, I am of the view that the invocation of the offence under Section 420 of



I.P.C. is clearly not warranted.

5.It can be clearly seen in view of the dispute between the landlords and the tenant, the case on hand has been engineered more as counter blast. The counsel appearing for the petitioners would draw my attention to the fact that the petitioners filed R.C.O.P.No.2 of 2018 before the Rent Controller, Madurai, for evicting the complainant and the same was also allowed on 26.10.2018. But even prior thereto, disputes had arisen between the parties. The list of documents enclosed along with the complaint would clearly point to the existence of the dispute between the two parties. Therefore, one can come to the safe conclusion that the present proceedings are more a counter blast.

6.One of the parameters laid by the Honourable Supreme Court in the case of ***State of Haryana and Others Vs. Ch.Bhajan Lal and Others*** is that the inherent powers of the High Court can be invoked for quashing a criminal complaint, if it is shown that the criminal proceeding is manifestly attended with *mala fide* or has been maliciously instituted with an ulterior motive for wreaking vengeance on the accused or with a view to spite him due to private and personal grudge. The case on hand would clearly attract the said parameter. Therefore, the impugned proceeding is quashed and the criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To:

The Judicial Magistrate,
Nilakkottai.

+1 CC to MR.BABU RAJENDRAN, Advocate (SR-89206[F] dated 25/09/2019)

+1 CC to MR.R.RAJARAMAN, Advocate (SR-89207[F] dated 25/09/2019)

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