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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P(MD)No.5886 of 2015

and

M.P.(MD)Nos.1 and 2 of 2015

1.Mrs.Umarani

2.Kallaih ... Petitioners/Accused No.3 & 4

Vs

1.State by,
Inspector of Police,
C-1, Othakkadai Police Station,
Madurai District. ... 1st Respondent/Complainant

2.M.Ramalakshmi ... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.293 of 2009 on the file of the Judicial Magistrate, Melur, Madurai District and quash the same.

For Petitioners : Mr.S.Ananthanarayanan

For R1 : Mr.A.Robinson
Government Advocate (Cr1.side)

For R2 : Mr.S.Ravi

ORDER

The petitioners are facing trial in C.C.No.293 of 2009 on the file of the Judicial Magistrate, Melur, for the offences under Sections 406 and 420 of IPC.

2.The second respondent M.Ramalakshmi is the defacto complainant. She is a 90 year old lady.

<https://hcservices.ecourts.gov.in/hcservices/>



3. The case of the defacto complainant is that she was taken to the Sub Registrar Office by the first accused and her signature was taken by holding out the representation that they are necessary for getting a certified copy of the certain documents pertaining to her ancestral property. But actually, power of attorney was obtained from the defacto complainant. On the strength of the power of attorney, the property in question was sold by A3-first petitioner herein. In this regard, based on the information lodged by the defacto complainant before the C-1, Othakkadai Police Station, Crime No.273 of 2008 was registered. Investigation was taken up and final report was filed. Cognizance of the offence was taken. The case was taken on file in C.C.No.293 of 2009. To quash the same, A3 and A4 have filed this criminal original petition.

4. The learned counsel appearing for the petitioners reiterated the contentions set out in the memorandum of grounds.

5. He would point out that the first petitioner is only a purchaser of the property and that, the primary allegations are only against the first accused.

6. The learned counsel appearing for the defacto complainant would point out that A1 to A4 are closely related to each other. A3 is the sister-in-law of A1, while A4 is the brother of A1. He would further contend that they were present at the time of registration of the power of attorney.

7. Since factual questions have been raised, I am of the view that the petitioners will have to necessarily establish their innocence only before the trial Court during the regular trial. No case has been made out for invoking the inherent powers of this Court. Therefore, this criminal original petition stands dismissed, leaving it open to the petitioners to establish their defence before the Court below. However, taking note of the facts obtaining in this case, their personal appearance is dispensed with. Of-course, the petitioners will have to appear, only if their presence is insisted upon by the Court below. On all other occasions, they can be represented by their counsel. Of-course, on those days, if the petitioners are not present, their counsel will have to be present. If the counsel is absent, the benefit of this order will stand automatically vacated. It is made clear that this Court has not pronounced anything on the merits of the matter. All the contentions of the petitioners are left open. Consequently, connected miscellaneous petitions are closed.



8. Since the case is of the year 2009, the Court below is directed to conclude the proceedings on merits and in accordance with law, within a period of eight months from the date of receipt of a copy of this order.

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Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
C-1, Othakkadai Police Station,
Madurai District.

2. The Judicial Magistrate, Melur, Madurai District.

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

+1 CC to M/s.S.RAMASAMY, Advocate (SR-92287[F] dated 16/10/2019)

+1 CC to M/s.S.RAVI, Advocate (SR-92525[F] dated 17/10/2019)

CrI.O.P(MD)No.5886 of 2015
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MR(CO)

TR(30.01.2020)3P 6C