



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.13454 of 2017

and

Crl.M.P.(MD) No.9061 of 2017

WEB COPY

M.Ramu

... Petitioner/Accused No.2

Vs.

1) The Inspector of Police,
Police Station,
Vadipatti, Madurai District.
(Crime No.382 of 2017)

... Respondent/Complainant

2) Rajendran

... Respondent/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.382 of 2017 dated 26.07.2017 on the file of the respondent no.1 for offences under Sections 406, 420, 294(b) and 506(i) of IPC and quash the same as illegal as against the petitioners.

For Petitioner : Mr.T.Lajapathi Roy

For R-1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

For R-2 : No Appearance

O R D E R

This Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No.382 of 2017 dated 26.07.2017 on the file of the first respondent police for an offence under Sections 406, 420, 294(b) and 506(i) of IPC.

2. The case of the prosecution is that the de facto complainant is engaged in real estate business and he entered into an agreement with the petitioner(A-2) for purchase of lands to an extent of 3 acres and 6 cents by fixing the sale consideration at Rs.45,000/- per cent. The de facto complainant had paid Rs.20,00,000/- (Rupees Twenty Lakhs only) as part of the sale consideration and had given a cheque for the remaining amount. It is alleged that the petitioner did not fulfill his part of the contract and therefore, the present complaint has been filed.

3. The learned counsel for the petitioner submitted that even if the entire allegations made in the F.I.R. are taken as it is, no offence of cheating or criminal breach of trust are made out in this case and it is a pure and simple case of breach of contract. The learned counsel submitted that a civil dispute has been given a criminal colour and therefore, the same requires interference of this Court in exercise of its jurisdiction under Section 482 of

Cr. P. C.



4. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the de facto complainant had initially given a complaint to the police and on enquiry, it was found to be a civil dispute. However, the de facto complainant filed an application under Section 156(3) of Cr.P.C. before the Magistrate Court and had obtained an order and pursuant to the same, the present F.I.R. has been registered by the respondent police.

5. I have given my careful consideration to the submission made by the learned counsel appearing for the petitioner as well the learned Additional Public Prosecutor appearing for the first respondent and there is no appearance for the second respondent.

6. A reading of the entire complaint shows that the de facto complainant had advanced certain amount of money to the petitioner towards the sale agreement and the petitioner had failed to perform his part of the contract. There is nothing to show that the de facto complainant had taken steps to enforce the agreement or to take steps to recover the money that is alleged to have been paid by the de facto complainant to the petitioner. In a case of this nature, no criminal offence can be made out since it is a pure and simple case of Breach of Contract. The case which is purely civil in nature has been given a criminal colour. Therefore, the F.I.R. registered by the respondent police requires interference of this Court.

7. In the result, the F.I.R. in Crime No.382 of 2017 dated 26.07.2017 on the file of the first respondent police is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected Crl.M.P.(MD) No.9061 of 2017 is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Police Station,Vadipatti, Madurai District.
(Crime No.382 of 2017)

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-103064[F]

Order made in

Crl.O.P.(MD) No.13454 of 2017

SMA/06/01/2020/2P/4C