



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.15869 of 2017
and
Crl.M.P.(MD) No.10540 of 2017

1) Thayuman

2) Rajalakshmi

... Petitioners/Accused Nos.1 & 2

Vs.

1) State rep. by

The Inspector of Police,
City Crime Branch,
(Serious Crime Squad),
Cantonment, Trichy
Cri.No.31/2017

... R-1/Respondent

2) Jagan

... R-2 / De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.31 of 2017 pending on the file of the 1st respondent police and quash the same as illegal.

For Petitioners : Mr.P.Ganapathi Subramanian

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 F.I.R. in Crime No.31 of 2017, pending investigation on the file of the first respondent police.

2. A reading of the allegation made in the F.I.R. shows that the de facto complainant has entered into an agreement of sale with the petitioners and an advance amount of Rs.15,00,000/- (Rupees Fifteen Lakhs only) was also paid. This agreement was entered into in the year 2012. Subsequently, the petitioners did not fulfill their part of the contract and the properties were also



mortgaged to HDFC Bank. Therefore, according to the de facto complainant, the petitioners have committed an offence of cheating and criminal breach of trust.

3. The learned counsel for the petitioners submitted that it is a clear case of breach of contract and a civil dispute has been given a criminal colour. The learned counsel submitted that an agreement was entered in the year 2012 and the complaint itself was given only in the year 2017. The learned counsel submitted that it is clear case of misuse of process of criminal law which requires interference of this Court.

4. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police and there is no appearance for the second respondent.

5. A reading of the complaint shows that there was an agreement of sale entered into between the petitioners and the de facto complainant. This agreement was entered into in the year 2012. The advance amount was also paid in installments. It is the grievance of the de facto complainant that the petitioners have mortgaged the property in favour of the HDFC Bank in the year 2014. Ultimately, the complaint came to be given only in the year 2017.

6. It is not clear as to why the de facto complainant has not taken any steps to enforce the agreement of sale. That apart, even if the de facto complainant wanted to enforce the agreement of sale before the competent civil court, it would have been barred by the Laws of Limitation. Therefore, the de facto complainant, who could not have achieved anything before the Civil Court, has attempted to give the civil dispute a criminal colour and has sought to achieve the same by giving a police complaint. The complaint itself is an abuse of process of law and absolutely, no offence has been made out. It is only a case of breach of contract and nothing more.

7. In the result, F.I.R. in Crime No.31 of 2017 pending on the file of the 1st respondent police is quashed and Criminal Original Petition is allowed. Consequently, connected Crl.M.P.(MD) No.10540 of 2017 is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
City Crime Branch,
(Serious Crime Squad),
Cantonment, Trichy
Cri.No.31/2017

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

Order made in
Crl.O.P. (MD) No.15869 of 2017

PM(CO)
TR(06.01.2020) 3P 3C