

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Cr1.O.P.No.13616 of 2012 and
M.P.No.1 of 2012

1. K.Devaki
2. S.Uma
3. K.Sathyannarayanan ... Petitioners
4.

Vs.

C.Nadagopal ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the criminal proceedings made in C.C.No.5249 of 2011 on the file of the learned Chief Metropolitan Magistrate, Egmore at Chennai and quash the same.

For Petitioners : Mr.B.Ganesha Moorthy
For Respondent : Notice served - No Appearance

ORDER

The respondent filed a private complaint before the learned Chief Metropolitan Magistrate, Egmore, under Section 156(3) of Cr.P.C. for the offence under Section 406 and 420 r/w 34 of IPC against these petitioners and two others. The learned Magistrate taken cognizance on the complaint in C.C.No.5249 of 2011. Pending the above case, A1 to A3 have filed the present petition before this Court to quash the case against them.

2 The learned counsel appearing for the petitioners would submit that there is no sale agreement executed between the petitioners and the respondent/complainant and he is only power agent of the petitioners herein. The properties in dispute was already sold to other two persons, who were also arrayed as A4 & A4. Even assuming that there is sale agreement executed by these petitioners in favour of the respondent, the respondent has to approach civil Court seeking the relief of specific performance, but, with an intention to harass these petitioners, he filed the present complaint. In fact, already civil suit is pending

between the petitioners and the respondent before the City Civil Court, Chennai. Therefore, the dispute is purely civil in nature and hence the present criminal complaint for the civil dispute is not maintainable and the same is liable to be quashed.

3 None appeared on behalf of the respondent. Heard the learned counsel appearing for the petitioners and perused the materials available.

4 On reading of the averments made in the complaint filed by the respondent, it reveal that prima facie there is allegations against these petitioners. Therefore, whether, the dispute between the parties will amount to criminal offence and is there any criminal offence made out is a matter for trial. Hence, this Court is not inclined to invoke Section 482 of Cr.P.C. and quash the case against these petitioners.

5 Accordingly, this criminal original petition is dismissed. Consequently connected miscellaneous petition is closed. However, since the case in C.C.No.5249 of 2011 is pending from the year 2011, the trial Court is directed to dispose of the case in accordance with law within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS-IV)

// True Copy//

Sub Assistant Registrar

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To

The Chief Metropolitan Magistrate,
Egmore, Chennai.

सत्यमेव जयते

+1cc to Mr.B.Ganesha Moorthy, Advocate, SR.No.6874.

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MP(CO)
srg 21/07/2020